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House of Representatives

The House met at 10 a.m.

The Reverend Charles L. Moseley, Pastor, Great Bridge Baptist Church, Chesapeake, Virginia, offered the following prayer:

Our heavenly Father, today we come into Thy presence with thanksgiving and praise for the privilege of calling upon Thy name. Through Thy Son Jesus Christ, we lift this assembly to Thee asking for divine wisdom and Thy leadership upon each one. We thank Thee, O God, for the dedication and sacrifice of these who serve, realizing the tremendous burden upon each one in the decisions that must be made day by day.

Help us to remember the heritage that is ours and make us an example to the world of what freedom and democracy are all about. Let us never forget the price that has been paid, and help us to always honor those who have gone before, making this day possible.

God bless the President, the congressional leaders, and God bless America to make us great because we have kept the faith.

In the name of Christ we pray. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

Mr. BURNS. Mr. Speaker, pursuant to clause 1, rule I, I demand a vote on agreeing to the Speaker's approval of the Journal.

The SPEAKER. The question is on the Speaker's approval of the Journal.

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. BURNS. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Pursuant to clause 8, rule XX, further proceedings on this question will be postponed.

The point of no quorum is considered withdrawn.

PLEDGE OF ALLEGIANCE

The SPEAKER. Will the gentleman from Texas (Mr. BURGESS) come forward and lead the House in the Pledge of Allegiance.

Mr. BURGESS led the Pledge of Allegiance as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Monahan, one of its clerks, announced that the Senate has passed without amendment bill of the House of its following title:

H.R. 2826. An act to designate the facility of the United States Postal Service located at 1000 Avenida Sanchez Osorio in Carolina, Puerto Rico, as the ''Roberto Clemente Walker Post Office Building''.

The message also announced that pursuant to provisions of Senate Resolution 98, agreed to July 25, 1997, the Chair, on behalf of the Majority Leader, announces the appointment of the Senator from Idaho (Mr. CRAIG) to the Global Climate Change Observer Group.

WELCOMING THE REVEREND CHARLES L. MOSELEY

(Mr. FORBES asked and was given permission to address the House for 1 minute.)

Mr. FORBES. Mr. Speaker, it is a privilege to welcome my friend and pastor, Reverend Charles Moseley, as guest chaplain of the United States House of Representatives. We are thankful for his presence today and for his humble ministry to God.

In over 30 years of service at Great Bridge Baptist Church in Chesapeake, Virginia, Reverend Moseley has steadfastly led his congregation in the footsteps of Christ, touching thousands of lives with the joy and peace of the Lord. Through the many years that my family and I have attended Great Bridge Baptist, I have come to know Reverend Moseley as a model of selfless service and great spiritual leadership. He has also been my pastor for over 30 years.

Reverend Moseley came to Great Bridge Baptist Church from South Carolina in 1969 and has served as pastor ever since. He and his wife, Lou, are devoted to their five children and six grandchildren, to each other, and to their extraordinary faith in the Lord. Through this great faith, Reverend Moseley has given countless people hope, inspiration, and spiritual strength.

We are honored to have Reverend Moseley with us today and we warmly welcome him. I thank him for his prayer today and for his spiritual guidance.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. OSE). The Chair will entertain 10 one-minute speeches from each side.

PARTIAL-BIRTH ABORTION BAN ACT OF 2003

(Mr. BURGESS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BURGESS. Mr. Speaker, today the House will vote on a historic bill, the conference report on the partial-birth abortion ban. As a physician who has delivered over 3,000 babies, I am personally opposed to abortion, but in

particular the only reason to select the partial-birth abortion procedure is to ensure that the baby is dead when delivered. As a physician, I recognize that serious complications can occur during the last trimester of pregnancy. However, if the mother's health dictates that the pregnancy must be concluded and a normal birth is not possible, the baby may be delivered by C-section. Whether the infant lives or dies depends upon the severity of the medical complications and the degree of prematurity, but that outcome is dictated by the disease process itself. The fate of the infant during the partial-birth abortion procedure is predetermined by the nature of the procedure performed and is uniformly fatal.

In 1995, a 12-doctor panel representing the American Medical Association recommended banning partial-birth abortion, referring to it as, and I quote, basically repulsive, close quote. I agree with the AMA's panel. The procedure is repulsive and after today will be illegal.

FREEDOM RIDERS

(Mr. CROWLEY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. CROWLEY. Mr. Speaker, I rise in strong support of the Immigrant Workers' Freedom Ride and its participants.

On September 20, hard-working men and women from every corner of this country set off on a journey in support of immigrant workers' rights. These men and women support our economy through their work. Men and women who support all of us with their dedication, their taxes, their skills. Men and women who are involved in their communities, in our communities.

Much like the freedom riders of years past, they are calling for what many would consider to be just basic rights. They are calling for family reunification. They are calling for the restoration of labor protections for all workers in the U.S. They are calling for our country to acknowledge their civil rights.

These men and women are as much a part of our Nation's history as they are a part of our Nation's present and future. For years they have proven their dedication to our country. They deserve more than a simple tour of our country. They deserve our respect.

HONORING THE SOUTH CAROLINA STATE FAIR

(Mr. WILSON of South Carolina asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WILSON of South Carolina. Mr. Speaker, it is a wonderful time of the year in South Carolina. It is a time when families from all over the State bring their children and friends to the State Fair in Columbia. The tradition of our State Fair dates back 134 years, when it started as an agricultural convention sponsored by the State Agriculture and Mechanical Society of South Carolina, raising funds for charities. Its facilities are a great resource for expositions and conventions year-round.

Today, the Fair attracts almost 600,000 people who come to enjoy educational exhibits, arts and crafts, livestock, games, rides and popular entertainment. I am proud to have attended the Fair since my childhood, and I am proud to recognize this as an example of the American spirit of community. I want to thank Society President Cante Heath and Fair Manager Gary Goodman for their hard work in making this year's Fair a tremendous success.

I ask all of my colleagues to join me in wishing the people of South Carolina a safe and enjoyable time at this year's State Fair.

In conclusion, may God bless our troops.

IMMIGRANT WORKERS FREEDOM RIDE

(Ms. LINDA T. SÁNCHEZ of California asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. LINDA T. SÁNCHEZ of California. Mr. Speaker, I rise today to welcome and salute the Immigrant Workers Freedom Ride.

Inspired by the 1961 freedom rides that sought to integrate bus terminals in the South, today's riders are visiting cities and towns across the country. They are raising awareness about the plight of immigrant workers and advocating for comprehensive change to our immigration system. Like Dr. Martin Luther King, Jr., these Americans refuse to believe, and I quote, that there are insufficient funds in the great vaults of opportunity in this great Nation.

Let me share the story of one of those Americans. Salvador Guillen is the proud leader of the Hotel Employees and Restaurant Employees International Union, Local 681. He is the father of three children and has worked as a housekeeper at Disneyland's Paradise Pier Hotel for over 15 years. Salvador was born in Zamora, Michoacan, and has lived in the United States for 18 years. He is now a proud citizen of the United States.

In his own words, Salvador states: ''I want workers like my two sisters who have not been able to legalize and who are forced to work jobs where they are abused, overworked and underpaid to have the same opportunity.''

Together we can implement sensible immigration policies that bring all immigrants one step closer to the American dream.

COMMENDING MEDICAL COLLEGE OF GEORGIA AND FORT GORDON COMMUNITY FOR THEIR EFFORTS TO FIGHT TERRORISM

(Mr. BURNS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BURNS. Mr. Speaker, in the wake of the September 11, 2001, attacks, the Medical College of Georgia, the U.S. Army Signal Center and the Southeast Regional Army Medical Command at Fort Gordon have joined together to train military and civilian personnel in disaster response, emergency medical response and emergency response coordination. I commend them for their efforts to develop the Training Center for Disaster Medicine Preparedness and a Disaster Response Simulation Center.

These three organizations combine to include world-class medical education facilities, faculty and advanced communications infrastructure, ensuring well-trained and prepared personnel in the event of a natural disaster or a terrorist attack serving not only east Georgia but indeed the entire Nation.

Mr. Speaker, I commend MCG and the Fort Gordon community for their efforts on behalf of our Nation.

MONEY-MAKING OPPORTUNITIES IN IRAQ

(Mr. KUCINICH asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. KUCINICH. Mr. Speaker, I remember the time that this administration came to the Congress and asked us to support the troops and then turned around and cut veterans benefits by $25 billion. Today, while we are being told to vote for $87 billion for Iraq to support the troops, we find that those who will benefit financially from the war are the armies of lobbyists who have ties to this administration.

In yesterday's Hill, a column by Josh Marshall points out, and this is a quote, ''The President's right-hand man quits his government job just before the bombs start falling. He sets up shop in the offices of one of the biggest GOP lobbyists in town. And he starts selling his services to clients who want a piece of the big Iraqi reconstruction contracts pie—the pie his old bosses are in charge of slicing up.''

From today's Washington Post:

''Getting the rights to distribute Procter & Gamble products would be a gold mine,'' said one of the partners at New Bridge who did not want to be named. ''One well-stocked 7–Eleven could knock out 30 Iraqi stores; a Wal-Mart could take over the country,'' he said.

Here we are with a hostile takeover led by our men and women whom we pride. Stop this administration from using troops to justify a war and war profiteering. Get out of Iraq.

PARTIAL-BIRTH ABORTION BAN ACT

(Mr. BARTLETT of Maryland asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BARTLETT of Maryland. Mr. Speaker, I came here with a prepared text, but I just could not resist this smiling face. Through the miracle of modern technology, this is the picture of a baby in the womb. It is clearly a baby. It is clearly smiling. It is clearly a human being.

I did not bring with me some other visuals that would show you what is going to happen to Sarah in the partial-birth abortion procedure. She is going to be turned around in her mother's womb, and she is going to be delivered feet first. Not quite delivered. Her head is going to be left in the birth canal and then a trocar is going to be stuck in the back of her head, just where the spinal cord enters the brain. And then her soft brain tissue is going to be sucked out. Obviously, her life expired. This is partial-birth abortion. We are going to ban this hideous procedure today.

IN SUPPORT OF THE BAN ON PARTIAL-BIRTH ABORTIONS

(Mr. BISHOP of Utah asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BISHOP OF UTAH. Mr. Speaker, often times we do things that are popular in America, but wrong. Today, we are going to do something that is popular with the majority of Americans, but very right.

H.R. 760 does not overturn the Roe v. Wade ruling, but it eliminates a heinous process that was never intended to be protected in the original judgment. When the Supreme Court bypassed the legislative process to make abortions legal 30 years ago, the legislative voice opposing abortion, was never heard. Thus the ruling laid the foundation for the outrage and protest we have today. The people were not allowed to be heard through their elected Representatives.

Many judges who today uphold the Roe v. Wade ruling today, oppose the procedure by which it became reality. By approving the conference report on the partial-birth abortion ban today, we will be enacting legislation the correct way. Both Chambers of Congress will have debated and spoken on this bill, and now the President will have the same opportunity.

The partial-birth abortion ban will be a good law, a righteous law, and it will be enacted the right way. I support this legislation because it protects the most important minority in America: those who cannot speak for themselves. I urge my colleagues to do the same.

IRAQ SUPPLEMENTAL

(Mr. STEARNS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. STEARNS. Mr. Speaker, as we debate the Presidential supplemental request for Iraq, one point I do want to address is the idea of placing some of the requested funds for reconstruction to Iraq in the form of a loan. I believe it is possible to do this considering the enormous assets of this country. I am not persuaded by the argument that we do not want to add to Iraq's current debt of $200 billion, which is largely owed to France, Germany, and Russia. I find it difficult to believe that if these countries truly want to contribute to the stability of the region, they would not seek to forgive a substantial portion of their debt.

The American families sacrificed much to win the freedom in Iraq. However, we cannot expect Iraq to pay back funds first to those very countries that sat back and let our men and women undertake the risks to win the freedom in Iraq.

SUPPORT THE PARTIAL-BIRTH ABORTION BAN ACT

(Mr. KENNEDY of Minnesota asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. KENNEDY of Minnesota. Mr. Speaker, today this House is set to pass a historic bill, the partial-birth abortion ban. We have passed it several times in the past, but this time is different. In this case, we have a President who has said that he will sign this important bill to end this horrific practice.

I have a nephew that was born a few years ago less than two pounds, and many of the young men and women waiting to be born that have been killed by this procedure have weighed more than Alexander. So I call on my colleagues to rise to this historic moment, pass this important bill, and protect those, the most innocent among us.

IMMIGRANT WORKERS FREEDOM RIDE

(Ms. DELAURO asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. DELAURO. Mr. Speaker, immigrants who come to this country today work hard in the lowest-paying jobs, sometimes working two or three jobs just to support their families. They earn very little money for their efforts, but they bring the richness of hope to our civic and our cultural communities. They pay taxes. They are overwhelmingly honest and hardworking, and they deserve our respect. They wanted only a fair opportunity to share in the prosperity of this great country. They only want what so many others received before them.

Today, because of outdated and unnecessarily burdensome immigration restrictions, many immigrants live their lives underground, cannot get an opportunity for a more formal, legal status and get the opportunity to work for citizenship. Immigration laws and policies that deny people opportunities for permanence or that leave them exploited should certainly be challenged. We should allow immigrant workers without documentation to seek permanent residency status without being forced to leave the country.

Undocumented workers, who have lived here lawfully and productively, should be eligible for immigrant visas based on family relationships and job skills. They should have the opportunity to become legal permanent residents and eventually U.S. citizens.

I join the gentlewoman from California (Ms. SOLIS) in her support of the Freedom Ride Resolution and urge the President to reform our broken immigration system.

CONFERENCE REPORT ON S. 3, PARTIAL-BIRTH ABORTION BAN ACT OF 2003

Mrs. MYRICK. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 383 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 383

Resolved, That upon adoption of this resolution it shall be in order to consider the conference report to accompany the bill (S. 3) to prohibit the procedure commonly known as partial-birth abortion. All points of order against the conference report and against its consideration are waived. The conference report shall be considered as read.

The SPEAKER pro tempore (Mr. OSE). The gentlewoman from North Carolina (Mrs. MYRICK) is recognized for 1 hour.

Mrs. MYRICK. Mr. Speaker, for purposes of debate only, I yield the customary 30 minutes to the gentlewoman from New York (Ms. SLAUGHTER), pending which I yield myself such time as I may consume. During consideration of this resolution, all time yielded is for the purposes of debate.

Mr. Speaker, on Wednesday the Committee on Rules met and granted a rule to provide for the customary 1 hour of consideration for the Partial-Birth Abortion Ban Conference Report of 2003.

The rule waives all points of order against the conference report to accompany S. 3 and against its consideration. It also provides that the conference report shall be considered as read.

This conference report makes it illegal in the United States for a physician to perform a partial-birth abortion. As an original cosponsor of this legislation, I am very pleased to see this conference report reach the floor of the House of Representatives. I have been waiting for this day to come since 1995.

I am sure that President Bush is eagerly awaiting the opportunity to put an end to this horrific act of human violence by signing this legislation into law. Finally, we have a President in the White House who will not veto this monumental legislation.

I also want to thank my colleagues on the other side of the Rotunda for passing this important legislation. I must say, as a mother and a grandmother, it is astonishing to me that this horrible practice is even remotely legal in America today, and as we will no doubt hear on the floor today, it is practiced all too often in there country.

Partial-birth abortion is the procedure where a pregnant woman's cervix is forcibly dilated over a 3-day period. On the third day, her child is pulled, feet first, through the birth canal until his or her entire body, except for the head, is outside the womb. The head is held inside the womb by the woman's cervix, and while the fetus is stuck in this position, dangling partly out of the woman's body and just a few inches from a completed birth, the abortionist inserts scissors into the base of the baby's skull, and the scissors are opened, creating a hole in the baby's head. The skull is either then crushed with instruments or a suction catheter is inserted into the hole and the baby's brain is suctioned out. Since the head is now small enough to slip through the mother's cervix, the now lifeless body is pulled the rest of the way out of its mother and the baby's corpse is discarded, usually as medical waste.

The vast majority of partial-birth abortions are performed on healthy babies and healthy mothers. Congressional findings have shown that the procedure is not medically necessary and actually poses a significant threat to the mother's health and her future fertility.

This conference report would also punish those who perform the procedure with fines and prison terms of up to 2 years. Husbands or parents of women younger than 18 would be able to sue for damages.

Although language banning this procedure was struck down in the past by the Supreme Court, this new legislation has been tailored to address the Court's concerns. The five-justice majority in Stenberg v. Carhart thought that Nebraska's definition of partial-birth abortion was vague and could be construed to cover not only abortions in which the baby is mostly delivered alive before being killed, but also the more common ''dilation and evacuation,'' D & E method. The conference report defines partial-birth abortion as an abortion in which ''the person performing the abortion deliberately and intentionally vaginally delivers a living fetus until, in the case of a head-first presentation, the entire fetal head is outside the body of the mother, or in the case of breech presentation, any part of the fetal trunk past the naval is outside the body of the mother for the purpose of performing an overt act that the person knows will kill the partially delivered living fetus.''

The tighter definition not only clarifies the procedure so that the court will not reject it, it also draws attention to the violence of partial-birth abortion by describing how far out the baby can be. We have changed the bill, adding findings of fact to overcome constitutional barriers, and I am confident it will survive judicial review.

This is a historic day for the American people. A civilized society cannot tolerate the barbaric nature of the partial-birth abortion procedure. Mr. Speaker, the public wants this bill in overwhelming numbers, believing in their hearts that we as a Nation are better than this. We are a better people. To that end, I urge my colleagues to support the rule and the underlying conference report.

Mr. Speaker, I reserve the balance of my time.

Ms. SLAUGHTER. Mr. Speaker, I thank the gentlewoman from North Carolina for yielding me the customary 30 minutes, and I yield myself such time as I may consume.

(Ms. SLAUGHTER asked and was given permission to revise and extend her remarks.)

Ms. SLAUGHTER. Mr. Speaker, it is indeed a historic day for America, for more, I think, than most people in here realize. For the first time in the history of the Republic, the Congress of the United States is poised to outlaw a medical procedure. A majority that wants the government off everybody's backs, wants to preserve privacy, is inserting itself between a woman and her family and her physician.

I wonder what is next. Perhaps they will decide that one cannot have a hysterectomy during child-bearing years, even though one may have some serious disease, or maybe we will outlaw vasectomies. That would be something we could do in here today too. And maybe we would not even like gallbladder operations. Who knows? There may be some reason we would not want to do those. All of them are pretty gruesome to describe.

Mr. Speaker, yesterday was the beginning of a new fiscal year and only three of the 13 bills appropriating funds for the new year have been signed into law. Millions of Americans are unemployed. Jobs continue steadily to disappear. More families living in poverty for the second year in a row, another historic day for America that has not happened before. Tens of millions of families live without any health insurance. The Federal debt is projected to reach $5 trillion. Thousands of American troops are in Iraq working in dangerous conditions. And instead of addressing these pressing issues, we are once again considering legislation that violates fundamental constitutional rights and threatens women's health.

Three years ago, the United States Supreme Court settled this issue, they thought once and for all, when it struck down similar legislation that banned safe and effective abortion procedures. The Court again confirmed the constitutional foundation of women's reproductive rights as recognized in Roe v. Wade and reaffirmed 2 decades later in Planned Parenthood of Southeastern Pennsylvania v. Casey. At the end of their last term, in the Lawrence v. Texas decision, the Court relied on the right to privacy that was recognized in Roe.

Despite the minor tinkering of the conference committee, S. 3 still suffers from the same constitutional flaws as the Nebraska statute thrown out by the Supreme Court, and this one we hope will meet the same fate. The ban on medical procedures is vague and overbroad and does not contain an exception to perform the procedure when a woman's health is threatened, and it goes so far as to give the father of the fetus the right to sue the woman or the doctor for money damages, even if he is not married to her or if he beats her or rapes her.

Obstetricians and gynecologists say that the term ''partial-birth abortion'' is not a medical term, and they are right. It is a political creation. We will not find the definition of the procedure that S. 3 seeks to ban in a medical dictionary or textbook. The nonmedical language in S. 3 could cover at least two different kinds of procedures, one of which is the most commonly used abortion procedure. This vague and overbroad definition would create so much confusion in the medical community that doctors would not know which medical procedure might land them in jail, and we should not make our doctors criminals.

S. 3 brazenly seeks to sidestep the Constitution. The Supreme Court has plainly determined that the Constitution requires an exception when the woman's health is endangered. Pages and pages of congressional findings will not change or will not fulfill the constitutional demand to protect a woman's health.

□ 1030

The authors of this bill hope that the Federal courts, most especially the Supreme Court, will defer to these congressional findings and waive this constitutional requirement. But the Court has squarely said that ''the power to interpret the Constitution in a case of controversy remains in the judiciary.'' And the Court has said that simply because Congress makes a conclusion does not necessarily make it so. Just because the findings in the bill assert that there is no medical reason for a health exception does not make that true, and it does not change the demands of the Constitution.

Last June, when the House first considered this bill, Ruth Marcus noted in The Washington Post that ''just as Clarence Thomas wrote in a different context that, if Congress 'could make a statute constitutional simply by finding that black is white or that freedom is slavery, then judicial review would be an elaborate farce.' ''

Despite what politicians may say, the American College of Obstetricians and Gynecologists, the doctors who perform these procedures, say that the procedure this bill seeks to proscribe

''may be the best or most appropriate procedure in a particular circumstance to save the life,'' I want to emphasize that, ''to save the life or preserve the health of a woman,'' and that ''only the physician, in consultation with the patient and based on her circumstances, can make this decision,'' not the Congress of the United States. We are not physicians here. I think we think we are omnipotent; we are not. Medical professionals in every Federal court in the country that has heard this issue, except for one, all have agreed that these are safe procedures and they may, in fact, be the safest procedure in some circumstances.

This, as I pointed out before, is the first time in the history of this Republic that Congress is banning a specific medical procedure. Physicians, and not politicians and pundits, should provide women and their families with medical advice. Women and their families, not the government, should make these difficult and private and medical decisions.

This bill would deprive doctors of the ability to care for their patients. By outlawing safe and effective medical procedures, Congress would subject women to more dangerous medical procedures, putting their health and their lives in jeopardy. Do we really want to do that? Women deserve the best medical care based on the circumstances of their particular situation. Instead of making abortion more difficult and dangerous, we should pass legislation that helps reduce the need for abortions; but we will not do that, by reducing the number of intended pregnancies. We should increase the funding for title X, and health insurance should cover contraception. It covers Viagra. Why not contraception? Emergency contraception should be more available. And research on other contraceptive methods should be fostered.

So why are we here today considering a rule for an unconstitutional bill? Richard Posner, Chief Justice of the U.S. Court of Appeals of the 7th Circuit who was appointed by President Reagan, gave us the answer when he wrote that the proponents of similar legislation ''are concerned with making a statement in an ongoing war for public opinion, though an incidental effect may be to discourage late-term abortions. The statement is that fetal life is more valuable than women's health.'' Let me say that last sentence again: ''The statement is that fetal life is more valuable than women's health.'' Judge Posner went on, writing that ''if a statute burdens constitutional rights and all that can be said on its behalf is that it is the vehicle that legislators have chosen for expressing their hostility to the rights, the burden is undue.''

The deliberate actions of the conference committee underscore the real aim of the bill. The majority of the other body passed a version, S. 3, that said, ''The decision of the Supreme Court in Roe v. Wade was appropriate and secures an important constitutional right, and such decision should not be overturned.'' Tuesday evening, the conference committee, along party lines, quickly stripped the Roe-supportive language out of the bill. This emphasizes the true purpose of the legislation: targeting a woman's right to privacy, with the hope that a Supreme Court with a new justice or two will weaken or reverse Roe. A Washington Post article said it plainly: ''The political agenda is clear. Ken Connor, president of the conservative Family Research Council, spelled it out in an e-mail after the Senate voted last March. With this bill,'' he wrote, ''we are beginning to dismantle, brick by brick, the deadly edifice created by Roe v. Wade.''

As a mother, grandmother, and a long-time advocate for women's health, I strongly believe that this bill is a threat to women's health, and an attempt to whittle away at a woman's constitutional right to her privacy and control of her body. I urge my colleagues to oppose this rule and to oppose S. 3.

Mr. Speaker, I reserve the balance of my time.

Mrs. MYRICK. Mr. Speaker, I am pleased to yield 1½ minutes to the gentlewoman from Colorado (Mrs. MUSGRAVE).

(Mrs. MUSGRAVE asked and was given permission to revise and extend her remarks.)

Mrs. MUSGRAVE. Mr. Speaker, few things that we do in this life have significance as we go 10, 20 years down the road; but the work that we are doing today in this Chamber has enormous significance. Partial birth abortion defies logic. I try to imagine how an individual could even come up with this thing that is called euphemistically a ''procedure.'' I am trying to imagine in my mind how a doctor, who is calling on his or her life to be a healer, to extend life for individuals, came up with this procedure. I am trying to imagine how sticking scissors into the brain of a child that is partially born is called a ''medical procedure'' that is to benefit the life of the mother, the mother whose body is getting ready to birth this child, a woman who is going through all of the things that we have gone through, getting ready to have the child.

It is an important thing in this Nation today that we have acknowledged what this really is, and it is a good day in America when our President will sign the partial-birth abortion ban into law.

Ms. SLAUGHTER. Mr. Speaker, I yield 3 minutes to the gentlewoman from California (Ms. WOOLSEY).

(Ms. WOOLSEY asked and was given permission to revise and extend her remarks.)

Ms. WOOLSEY. Mr. Speaker, here we are at the end of the fiscal year with important unfinished work for the House of Representatives. Our fiscal year budget is not complete, our seniors do not have a prescription drug benefit, and our local communities still need support in the war against terror, to list only a few of the unfinished pieces of business that we have before us.

Yet, what does the majority decide to bring to the floor? A bill that everyone knows will not pass the muster of the Supreme Court. Because there is no exemption to protect a woman's health, this bill not only fails to meet moral requirements, it fails to meet constitutional requirements.

We have a moral obligation to protect and promote women's health, not endanger it. In fact, our debate should be about measures to reduce the number of unintended pregnancies and ensuring that all pregnant women have affordable access to the care they need so they can deliver healthy babies.

The Supreme Court has been clear. Our laws cannot take away a woman's right to a safe and accepted medical procedure when her health is in danger; and yet the antichoice lobby chooses to once again waste our valuable time pushing legislation that politicizes women's health and chips away at a woman's constitutional right to choose an appropriate lifesaving medical procedure.

As we know, a pregnancy can go tragically wrong in the final stages; and in these unimaginable circumstances, a woman must not be required to risk her health and future fertility by continuing a dangerous pregnancy. I am not a doctor, so I am not going to stand here and pretend that I have the necessary expertise to make medical decisions for my constituents, nor should any Member of the House, nor any Federal agency. Instead, I want every woman in my district and in this Nation to have access to the procedure she and her physician feel are the safest and most appropriate for her particular situation.

Let us be honest. The debate today is not about aborting viable, healthy children. Few late-term abortions occur, and those that do are tragically necessary to save the life or health of the mother. This debate is really about limiting a woman's right to privacy and restricting access to constitutionally protected medical procedures. The American people must know that while the necessary work of the House of Representatives remains undone, we are here debating a bill that makes an unconstitutional attempt to chip away at a woman's right to access for a particular medical procedure.

Mr. Speaker, I urge my colleagues to oppose this rule and oppose this conference report.

Mrs. MYRICK. Mr. Speaker, I am pleased to yield 2 minutes to the gentleman from Kentucky (Mr. LEWIS).

Mr. LEWIS of Kentucky. Mr. Speaker, I thank the gentlewoman for yielding me this time.

Mr. Speaker, I rise today to express my support for the conference report on the Partial-Birth Abortion Ban Act

of 2003. For nearly a decade, Congress has attempted to see this legislation become law, and I am pleased that we will again be affirming the message that partial-birth abortion is wrong.

There is overwhelming support in the second district of Kentucky and across the Nation for a ban on partial-birth abortions. Eight versions of a partial-birth abortion ban have passed the House since the 104th Congress. This body also passed multiple overrides of Presidential vetoes on this issue during the Clinton administration. Throughout this time, we have seen numerous State legislatures take similar action and vote to end the savage practice of partial-birth abortions in their States.

There is a clear and consistent mandate throughout the Nation: partial-birth abortion is wrong and must be prohibited by law.

I realize that the issue of abortion is difficult and powerfully divisive for many Americans. There are well-intentioned, intelligent people on both sides of this debate who will continue to disagree. But I am deeply concerned about the value our society places on human life when we tolerate this practice, brutally denying a defenseless, unborn child its right to life. By condoning abortion, and especially the brutal practice and procedure of a partial-birth abortion, our greater human condition is significantly cheapened.

I am pleased that so many of my colleagues are taking a stand and acting in support of this legislation. This conference report demonstrates the bicameral and often bipartisan commitment of lawmakers in the 108th Congress to protect the sanctity of human life by outlawing a procedure that devalues and violently terminates its potential. I am also encouraged knowing that at this time we have an administration that is willing to take positive action and sign this ban into law.

The late Mother Teresa of Calcutta once said, ''The greatest destroyer of peace is abortion because if a mother can kill her own child, what is left for me to kill you and you to kill me? There is nothing between.'' It is time we act strongly and unmistakably and vote once again to preserve life and ban this gruesome, inhuman practice.

Ms. SLAUGHTER. Mr. Speaker, I yield 3½ minutes to the gentleman from Maryland (Mr. HOYER).

Mr. HOYER. Mr. Speaker, let us be crystal clear about what this House is doing today. We are making a medical judgment. That ought to be of deep concern to every American who believes that the Federal Government has no business injecting itself into the middle of the doctor-patient relationship. If we pass this partial-birth abortion conference report, elected representatives of the people of the United States, not the medical community, not doctors, not trained persons, will be telling every American woman that she cannot obtain certain medical procedures that are currently legal and available to her. If that does not trouble you, this should: this conference report is patently unconstitutional.

The proponents of this conference report are literally trying to paper over Supreme Court precedent in direct contradiction of the Supreme Court's decision 3 years ago in Stenberg v. Carhart. This conference report deliberately excludes an exception for cases in which a woman's health is in jeopardy. Instead, the proponents of this conference report have added dozens of pages of congressional findings that conclude that the prescribed abortion procedure is never medically necessary. The distinguished gentlewoman from New York (Ms. SLAUGHTER) quoted Justice Thomas in saying that that would not work and could not work.

Mr. Speaker, I do not believe that anyone here believes that abortion is a desired outcome to a woman's pregnancy; no one believes that. I think without question that this belief is even stronger when an abortion is obtained in the later stages of pregnancy. However, Mr. Speaker, the fact of the matter is, this legislation, and I have said it before and I will say it again, would not prevent one abortion.

□ 1045

This legislation will not prevent one abortion, not one. Why? Because it leaves in place other procedures. That is because, while it claims to ban a specific medical procedure performed in the most tragic of circumstances, it leaves other means of terminating a pregnancy in place. To that extent, this legislation is without effect.

I would challenge any proponent of this legislation to tell me why it prohibits the termination of a pregnancy. I understand the proponents say it prohibits a procedure, but there will be not one proponent because it will not be medically justifiable to say so, that it precludes the termination of a pregnancy at any stage.

Unfortunately, Mr. Speaker, this House has again missed an important opportunity to seize what common ground exists in this difficult issue. The bipartisan Late-Term Abortion Restriction Act, which failed on this floor, which I co-sponsored this year, addresses the heart of the matter: the termination of pregnancy in the late stages of pregnancy. That legislation would have precluded all late-term abortions by any method except to save the life or protect the health of the mother.

It is clear that the conference report before us is nothing but a veiled attempt to undermine the Supreme Court's landmark ruling in Roe versus Wade. It will fail. It will fail in the courts. How else can one explain the conferee's decision to strip out the Senate language reaffirming Roe? I hope my colleagues reject this bill.

Mrs. MYRICK. Mr. Speaker, I yield 1 minute to the gentleman from Maryland (Mr. BARTLETT).

(Mr. BARTLETT of Maryland asked and was given permission to revise and extend his remarks.)

Mr. BARTLETT of Maryland. Mr. Speaker, I rise today to support the rule and passage of the Partial Birth Abortion Act of 2003. Eliminating the cruel and unusual punishment of partial birth abortion is a step in the right direction for the United States as a civilized society. We would never tolerate such a brutal form of execution for the most heinous criminal. It is right to end this method of killing innocent, unborn children in their mother's womb.

The facts of partial-birth abortion are gruesome, and I will not repeat them. They are humiliating. They are heinous. I am embarrassed in this civilized society to have to describe a procedure that should never be. Ending partial birth abortion will reaffirm the principle in our Declaration of Independence that human beings, that baby smiling in the womb, are endowed by their creator with a right to life.

I thank God for the support of President George W. Bush who will sign this bill into law to end this heinous practice.

Ms. SLAUGHTER. Mr. Speaker, I yield 2 minutes to the gentlewoman from New York (Mrs. MALONEY).

Mrs. MALONEY. Mr. Speaker, I thank the gentlewoman from New York (Ms. SLAUGHTER) for her leadership, and I rise in strong opposition to this rule and the underlying bill.

Contrary to what proponents have claimed, this bill has nothing to do with late-term abortions or with banning one specific procedure. Instead, this bill bans the safest procedures physicians perform, starting as early as 12 weeks of pregnancy. It also lacks any exception for the health of a woman.

The Supreme Court settled this debate 3 years ago when it struck down a nearly identical Nebraska ban for the same two reasons I mentioned, and the Supreme Court warned that this type of legislation would have, and I quote, ''tragic health consequences,'' end quote.

More women will suffer serious medical complications including infertility, infection, and even death because of your actions today.

The question here is not whether this bill is unconstitutional; the question is, why are you passing an unconstitutional bill that is so dangerous to the health of your wives, daughters and friends?

Mrs. MYRICK. Mr. Speaker, I yield 2 minutes and 10 seconds to the gentleman from New Jersey (Mr. SMITH).

Mr. SMITH of New Jersey. Mr. Speaker, partial birth abortion is but the tip of an ugly and an unseemly iceberg.

Just below the surface, the surface appeal of choice is a reality almost too horrific and cruel to contemplate, let alone face. Yet we persist in our illusions and denial, ever enabled by clever marketing, biased news reporting, and the cheap sophistry of choice.

Let us be clear. Abortion is child abuse, and it exploits women.

Women deserve better than having their babies stabbed, cut, decapitated, or poisoned. Women deserve nonviolent, life-affirming, positive alternatives to abortion.

Thirty years after Roe, the national debate about partial birth abortion has finally pierced the multiple layers of euphemisms and collective denial to reveal child battering in the extreme. The cover-up is over, and the dirty secret concerning abortion methods is finally getting the scrutiny that will usher in reform and protective statutes.

Mr. Speaker, there is nothing compassionate nor benign about stabbing babies in the brain with scissors so their brains can be sucked out. In like manner, there is nothing compassionate or benign about other methods of abortion, like injections of chemical poison that burn and blister or dismemberment by suction machines 20 to 30 times more powerful than household vacuum cleaners.

The loss of children's lives since Roe has been staggering, Mr. Speaker: 44.4 million babies dead. Picture this: Two days ago 56,292 fans packed into Yankee Stadium for the play-offs. The number of children killed since Roe would fill Yankee Stadium to capacity each and every day for 788 days. The shear number of children destroyed is numbing.

Then there is the terrible toll that abortion imposes on women. A new organization, Mr. Speaker, Silent No More, organized by women who have had abortions, including actress Jennifer O'Neill, shatters the myth that abortion somehow benefits women. ''We are the face of women exploited,'' they say.

Women need real love, genuine compassion, and their voice will ultimately be heard. Mr. Speaker, the cover-up is over.

Ms. SLAUGHTER. Mr. Speaker, I yield 3 minutes and 30 seconds to the gentlewoman from the District of Columbia (Ms. NORTON).

Ms. NORTON. Mr. Speaker, I thank the gentlewoman for New York (Ms. SLAUGHTER) for her steadfast work to preserve a woman's right to choose, as this bill does not, and to keep us from endangering that right from the thirteenth week on. And that is what this bill does.

I want to speak to the constitutional issues. I understand where many Americans are on what they think is misnamed partial birth abortion. You know, that is a 1984 gamut, call something what it is not, trying to focus the American people on a viable baby being aborted as it comes out of its mother's womb. My friends, that is not this bill.

This bill is a virtual twin of a bill in Nebraska law that was struck down 3 years ago by the Supreme Court in Stenberg versus Carhart. This is a redux of that unconstitutional law. And though there have been some attempts to fiddle with the bill in those terms, there is not a dime's worth of difference between this law and the Nebraska law.

Now, the Republicans are not as dumb as they look. They have read the decision. They are not even trying to ban one procedure. They are trying to dip into the second trimester, and, boy, have they done it. And Ms. and Mrs. America do understand that, beginning with the thirteenth week, the procedures most commonly used and understood to be the safest procedures for performing abortions after the thirteenth week would be banned by this bill. In the law we say it is unconstitutionally vague. That means it is so broad that it goes beyond what might be legal. Of course, this would not be legal because it has no health exception.

The majority is trying to practice medicine without a license. It certainly is not capable of practicing law without a license, because each and every time this and similar bills have been overturned. Worse, there is no health exception. It is as if Roe versus Wade never said that in order to be constitutional there always had to be a health exception. These folks just slide right over that.

I want to leave you with the words of the Supreme Court in Carhart, because you are going to be hearing them again. This is not my Supreme Court, this is a conservative Supreme Court. And it said, ''Using this law some present prosecutors and future attorneys general may choose to pursue physicians who use the most commonly used method for performing previability, second trimester abortions. All those who perform abortion procedures using that method must fear prosecution, conviction, and imprisonment. The result is an undue burden upon a woman's right to make an abortion decision. We must quickly find the statute unconstitutional.''

It was unconstitutional 3 years ago, my friends. It is unconstitutional today, even if we enact it.

Mrs. MYRICK. Mr. Speaker, I yield 2 minutes to the gentleman from Arizona (Mr. RENZI).

Mr. RENZI. Mr. Speaker, today we enter into the final weeks of debate, delay, and continued obstructionism surrounding one of the most corrupt laws ever forced upon this land by the Supreme Court, that of partial birth abortion. This horrific and violent procedure against pre-born American children unbelievably is still the law of this land.

As shown on this diagram, this law allows an abortionist to pull a fully developed baby out of its mother's womb by its feet. This is the law that still allows an abortionist to insert his scissors into the base of a child's brain stem, and this is the law that still allows an abortionist to vacuum out a baby's brains.

They deceive the American people by calling it choice. Hide the true facts and spin it until you are blue in the face, but the days of this Nation having a law that advocates child abuse and death to pre-born American children may finally have seen its own demise. We are on the verge of eliminating a decrepit and immoral law from the same books that contains our sacred rights and liberties.

As the father of 12 children, I want to teach my children to love this Nation unconditionally, to revere her, to respect her laws and be drawn into complying with the laws of this Nation because her laws represent goodness, because they are filled with integrity, and because we are bound by a moral sense of obligation to abide by them.

Let us love this Nation and hold her laws in esteem by eradicating this disgusting laws from our land. Stop the torture and infanticide of our pre-born American children and our future patriots. Let them have life and finally let us rid ourselves of this evil.

Ms. SLAUGHTER. Mr. Speaker, I yield myself 30 seconds.

Mr. Speaker, I need really to respond to the previous speaker.

First, Roe v. Wade does not allow abortions after the first trimester without a doctor's permission. These are fetuses in many cases with no brains, with no lungs, who may live for a moment or two. These are not children that are born and run around the room.

It is outrageous to stigmatize women who have had this procedure so that they can protect their fertility system so that maybe they, too, can have 12 children and not have to stop with one. Have a little compassion.

□ 1100

Mr. Speaker, I yield 3 minutes to the gentleman from Texas (Mr. EDWARDS).

Mr. EDWARDS. Mr. Speaker, this bill is not a serious attempt to save babies. It is a cynical attempt to make political points. Do you know what? There is a dirty little secret about this bill that is starting to get out, and that secret is that this bill does not outlaw late-term abortions. Let me repeat that.

Under this bill, late-term abortions under Federal law, will still be perfectly legal. Why do I say that? Very simply, because this bill only outlaws one late-term abortion procedure, while allowing all others to remain perfectly legal. For 8 years, I have asked on this floor the supporters of this bill to explain why they did not want to put in this bill an outlaw of all late-term abortion procedures like I helped do in the Texas legislature 13 years ago.

I think probably the honest answer to that was given by Ralph Reed a number of years ago when he said, ''the partial-birth abortion bill is a silver political bullet.'' And I think the people in America who should truly be upset about this bill and the effort to pass it for 8 years, are not just the pro-choice people. It should be the genuine, decent pro-life people who in their own heart have been misled to believe that

this bill would actually outlaw late-term abortions. It does not. And that is a dirty little secret that is starting to get out, even in the pro-life community.

In fact, let us go to a statement made just 2 weeks ago by Randall Terry, who is the founder of Operation Rescue, an ardently pro-life organization. This is what Mr. Terry, a pro-life citizen, said, ''This bill, if it becomes law, may not save one child's life.''

Yes, Mr. Speaker, the dirty little secret is getting out. There is another little secret that is getting out about this bill, and that is that it is absolutely, patently unconstitutional. So those who have pushed this bill have pushed a false promise on their pro-life constituents.

Why is it unconstitutional? It is as clear as the Supreme Court can say. When it puts a decision in italics, I think it is trying to make it a very clear point to those who would read it; but for those who cannot understand it, let me read Justice O'Conner's statement from the Stenberg v. Carhart decision in 2000, which outlawed a bill almost exactly like this.

''States may substantially regulate and even prescribe abortion, but any such regulation or prescription must,'' not maybe, ''must contain an exception for instances,'' and this was in italics, ''where it is necessary, in appropriate medical judgment, for the preservation of life or health of the mother.''

Well, guess what, unlike the constitutional bill I passed in the Texas legislature 17 years ago abolishing all late-term abortion procedures, but constitutional because we had a health exception, this bill refuses to have a health exception, even when the mother's health is at risk.

This bill is a false promise. It will harm good decent women in this country, and it should be defeated.

Mrs. MYRICK. Mr. Speaker, I yield 1 minute to the gentlewoman from Virginia (Mrs. JO ANN DAVIS).

Mrs. JO ANN DAVIS of Virginia. Mr. Speaker, I rise today in support of the rule and I urge my colleagues to again support the Partial-Birth Abortion Ban Act of 2003.

I am pleased to stand here today on the brink of passage of this critical piece of legislation. In doing so, we reaffirm that partial-birth abortion is a heinous and unnecessary procedure that has already claimed the lives of too many innocent preborn victims.

We already know in statements, such as those of former Surgeon General C. Everett Koop, that a ''partial-birth abortion is never medically necessary to protect a mother's health.'' Why then, Mr. Speaker, is there any question at all that this procedure needs to be banned?

We must stop victimizing the women and children of America through partial-birth abortion.

Mr. Speaker, the insanity of legalized murder will end with the passage of this long-awaited law. I urge my colleagues to support the rule and pass the partial-birth abortion ban.

Ms. SLAUGHTER. Mr. Speaker, does the gentlewoman from North Carolina (Mrs. MYRICK) have any further speakers?

Mrs. MYRICK. Mr. Speaker, I have about five more speakers.

Ms. SLAUGHTER. Mr. Speaker, I reserve the balance of my time.

Mrs. MYRICK. Mr. Speaker, I yield 1 minute to the gentleman from New Jersey (Mr. GARRETT).

Mr. GARRETT of New Jersey. Mr. Speaker, I rise today in support of what is perhaps one of the most significant pieces of legislation that this House will ever consider. Why so significant? Because this bill will save lives. But even more than that, more than saving lives, it would save the lives of innocent children. And that is why I support the passage on the ban of partial-birth abortion.

This procedure, as some would like to call it, is a cruel, unusual, heinous, inhumane way of murdering our children.

As we pass this bill today, we will be doing so with the support of the American public. We will be doing so with the support of the people back in my State of New Jersey and with some 30 other States as well, who have tried as well to ban this heinous conduct. And the reason why they are supporting us in this endeavor is because they know we must save the lives of this and future generations of the American family.

Ms. SLAUGHTER. Mr. Speaker, I reserve the balance of my time.

Mrs. MYRICK. Mr. Speaker, I yield 2 minutes to the gentleman from Pennsylvania (Mr. TOOMEY).

Mr. TOOMEY. Mr. Speaker, I would like to commend the gentleman from Ohio for introducing this legislation and for his leadership on this, and I want to thank God today that we will finally pass, and send to a President who will sign it, a bill banning a barbaric, brutal procedure for killing unborn babies.

It seems to me having a legal ban on partial-birth abortion just strikes me as a minimal sort of threshold level indication of human decency for our society. To take an unborn baby, induce a partial delivery, kill the baby, then pull it out and discard it, demonstrates such a wanton contempt for human life, it really should be chilling for all of us.

This bill establishes what I see as at least a minimal level of respect for human life; but, frankly, we have got a long way to go. I would like to address the Roe v. Wade decision which has come up repeatedly. I think we just need to speak candidly about this decision, Mr. Speaker.

The fact is it is a terrible decision that has resulted in the deaths of millions of unborn babies. But even if the immorality of the decision does not move someone, I would think the contempt for the Constitution that it demonstrates ought to. Because let us face it, you can read the Constitution. It is written in English, and it is very clear. The Constitution does not guarantee a right to have abortions. A few Supreme Court Justices on the other hand, decided that they would rather be legislators than Justices and so they invented this right. They wrote it in a decision. And unfortunately, as unaccountable legislators, it is now the law of the land. But that is what it is. It is a terrible misreading of the Constitution.

I commend the conferees for striking the reaffirmation of Roe v. Wade from the bill that was passed in the other body. I commend them for bringing this bill to the floor today, and I urge my colleagues to support the rule and to support this conference report.

Ms. SLAUGHTER. Mr. Speaker, I reserve the balance of my time.

Mrs. MYRICK. Mr. Speaker, I yield 2½ minutes to the gentleman from Oklahoma (Mr. SULLIVAN).

Mr. SULLIVAN. Mr. Speaker, no matter where we stand on the issue of abortion, most Americans agree the brutal and horrific practice of partial-birth abortion in this country must end. I have even had some of the hard-shell pro-death, pro-abortion come up to me in saying that this horrific action ends. They even think it is bad.

In previous Congresses, legislation to ban partial-birth abortion has been thwarted by Presidential veto. This year our President, President Bush, will sign this bill into law, making it the first abortion-limiting law on the books since Roe v. Wade was enacted.

This is truly an historic moment and a milestone for the rights of the unborn. This is also an historic time for this Congress. We have listened to the will of our constituents, and we heard them loud and clear. They demand a ban on partial-birth abortion. According to a recent poll conducted earlier this year, 70 percent, 70 percent of Americans favor a law that would make this procedure illegal, except in the case necessary to save the life of the mother.

The outrage over this grotesque practice is nothing new. The American Medical Association has said the partial delivery of a living fetus for the purpose of killing it outside the womb is ethically offensive to most Americans and physicians. It degrades the medical practice and cheapens the value of life.

As a husband and father of four beautiful children, I have a deep respect for the sanctity of life and the miracle of childbirth. I have been at every one of my children's births. Recently, I had a child 8 months ago, and to think that if you could have stopped that head before it came out, but if it slips out you could not kill the child, but to stop the head but to stick a pair of scissors in the back of the skull, suck the brains out and deliver it dead is unimaginable and should not happen in the United States of America or anywhere else in the world.

There is no place in a civilized society for this horrific practice. Today we

take solace in the fact that the nightmare of partial-birth abortion will soon end. I urge my colleagues to vote in favor of this rule and conference report.

Ms. SLAUGHTER. Mr. Speaker, I yield 3½ minutes to the gentleman from Virginia (Mr. SCOTT).

Mr. SCOTT of Virginia. Mr. Speaker, I rise in opposition to the rule and to the underlying bill.

Let us make it clear, the conference report and the bill before us will not prohibit any abortions. Alternative bills which would have outlawed late-term abortions have been rejected by the majority. This bill will not prevent any abortions.

The bill will prohibit a procedure. The abortion can still take place using another procedure, and I am not going to inflame the debate by describing in explicit detail the alternative procedures that may be used.

But I will point out that Nebraska had a law banning the so-called partial-birth abortion procedure. Three years ago the United States Supreme Court held that that law was unconstitutional. The Supreme Court said five times in its majority opinion and other times in concurring opinions, that in order to make a partial-birth abortion ban constitutional, the law must contain a health exception to allow the procedure where it is necessary in appropriate medical judgment for the preservation of life or health of the mother. That is what five Supreme Court Justices said is necessary to make the bill constitutional. All five are still on the Supreme Court.

In that case the Court said, The question before us is whether Nebraska's statute making criminal the performance of a partial-birth abortion violates the Federal Constitution. We conclude it does for at least two independent reasons.

They went on to say that the first reason was that it lacks the exception for the preservation of the health of the mother. The Court said, ''Subsequent to viability, the State may, if it chooses, regulate or even prescribe abortion,'' and then they put this in italics, ''except where as necessary in appropriate medical judgment for the preservation of life or health of the mother.''

It goes on to say that the governing standard requires an exception, now listen up, because now they put it in quotes, ''where it is necessary in the appropriate medical judgment, for the preservation of the life or health of the mother.''

The Court continues talking about the health exception by saying that ''our cases have repeatedly invalidated statutes that in the process of regulating the methods of abortion impose significant health risks.'' They make it clear that risking a woman's health is the same, whether it happens to arise from regulating a particular method of abortion or from barring abortion entirely.

Just in case we did not get it, the Court said again, ''By no means must the State grant physicians unfettered discretion in their selection of abortion methods. But where substantial medical authority supports the proposition that banning a particular abortion procedure could endanger a woman's health, Casey requires that the statute include a health exception where the procedure is 'necessary in the appropriate medical judgment for the preservation of life or health of the mother.'''

Now, the record clearly reflects that there is substantial medical authority supporting the use in some cases of this procedure.

Mr. Speaker, whatever our views are on the underlying issue of abortion, we ought to read the decision and apply the law.

Mr. Speaker, whatever our views are on the underlying issue of abortion, we ought to read the decision and apply the law. The Supreme Court in one decision said at least five times that the health exception must be included for the statute to be constitutional.

□ 1115

Furthermore, they put the exact phrase to be used, ''necessary, in appropriate medical judgment, for the preservation of the life or the health of the mother,'' in plain text, in italics and in quotations.

Here we have a bill without the health exception. It is clearly unconstitutional, and we ought to reject the rule and the bill.

Mrs. MYRICK. Mr. Speaker, I yield 2 minutes to the gentleman from Georgia (Mr. GINGREY).

Mr. GINGREY. Mr. Speaker, I thank the gentlewoman from North Carolina for yielding time to me; and Mr. Speaker, let me just say in regard to some of the comments that the gentleman from Virginia just made in regard to this ban on partial-birth abortion only eliminating one method of a late-term abortion, and he said he would not describe some of the other procedures of late-term abortion, and I wish maybe he had because I, as a physician, as an OB/GYN physician, do not know of any other procedures, late-term procedures that would result in the death of a child at this stage of pregnancy, and we are talking about infants, that are well past the point of viability.

We are talking about, in some instances, 4½-, 5-pound babies, that that pregnancy cannot be terminated, and resulting in a dead baby without doing a destructive procedure known as partial-birth abortion. It literally is the only option left for a woman who wants to choose death for her child in the third trimester. If you do a cesarean section, you have got the problem of delivering a live child. If you induce labor, you have the problem of having a live child, and that problem means that you cannot perform an abortion.

This is what it is all about, and the gentleman from Texas on the other side spoke a few minutes ago about the dirty little secret, the dirty little secret of this not banning late-term abortion. It certainly does when we eliminate this abhorrent procedure known as partial-birth abortion.

This question that keeps coming up about the health exception, how in the world could anybody consider that it would be a healthy thing to put a mother through this kind of procedure in the third trimester. It is not healthy. It is totally unhealthy. It is a complete farce.

I urge the adoption of the rule, and let us get on and pass this ban. It is time.

Ms. SLAUGHTER. Mr. Speaker, may I inquire how much time is left on either side.

The SPEAKER pro tempore (Mr. ISAKSON). The gentlewoman from New York (Ms. SLAUGHTER) has 2½ minutes remaining, and the gentlewoman from North Carolina (Mrs. MYRICK) has 8¼ minutes remaining and has the right to close.

Ms. SLAUGHTER. Mr. Speaker, do I understand the gentlewoman has no more speakers?

Mrs. MYRICK. I just have one more speaker.

Ms. SLAUGHTER. Mr. Speaker, I reserve the balance of my time.

Mrs. MYRICK. Mr. Speaker, I yield 2 minutes to the gentleman from New Jersey (Mr. SMITH).

Mr. SMITH of New Jersey. Mr. Speaker, I thank my good friend for yielding me the time.

Mr. Speaker, let me just make this very clear. The other side cannot have it both ways. The gentleman from Maryland (Mr. HOYER) and the gentleman from Texas (Mr. EDWARDS) argue that this legislation will not stop a single abortion, while the gentlewoman from New York (Mrs. MALONEY) and the gentlewoman from the District of Columbia (Ms. NORTON) took to the floor and argued that it would ban all abortions after 12 weeks. They cannot have it both ways.

Let us be very clear. Let us have intellectual honesty in this debate. We are trying to proscribe a horrific procedure wherein a baby who is partially born, only to have his or her brain jabbed with a scissors or some other sharp instrument and his or her brains are sucked out, thereby killing that child. This was invented by the abortion industry as a way of precluding what they considered a ''dreaded complication,'' that is, late-term abortions where babies actually survive and go on to be adopted in many cases.

There have been many instances where babies survive an hour, 2 hours or longer. Some survive and are adopted, having survived later-term abortions. Partial birth abortion ensures that there is no survivor. They set out to kill the baby. The abortionist succeeds in his task.

Let me also point out that the gentlewoman from New York (Ms. SLAUGHTER), my good friend, argued that partial-birth abortions are performed on

disabled children. First of all, I resent the fact that somebody would suggest that a disabled child ought to be executed in this fashion. The Americans with Disability Act and all the other disability legislation finally brought us to the point where we recognized disabled people as just as human, just as alive, just as entitled to the best possible life imaginable as everyone else. To say that somehow the disabled ought to have this method reserved for them because, of course, they are disabled, I think, is unconscionable.

Let me also say, Ron FitzSimmons from the Abortion lobby made it very clear Pro-Abortion side ''lied through our teeth'' about for whom this method was intended. It is intended for later-term, second-trimester and third-trimester abortions. They lied through their teeth about who it was these were performed on. And how often they are performed.

Most of the kids who are killed with partial-birth abortion methods are perfectly healthy, perfectly normal, and those kids, like their disabled brothers and sisters, should not be executed in this terrible way or in any other way.

Ms. SLAUGHTER. Mr. Speaker, I yield myself the balance of our time.

First, let me say that no one is advocating the killing of disabled children. That is offensive to all of us. The fact is that a fetus that is being born with no brain or one with no lungs is one that will not live. I believe even the OB/GYN would admit to that.

Let me then go on to say that this decision to terminate a pregnancy in the late term is an agonizing decision. Parents who have carried a child to late term desperately want that child. In many cases, they have already named that child. Listen to the story of Viki Wilson and her family.

She told in her own words: ''In the spring of 1994, I was pregnant and expecting Abigail, my third child. My husband, Bill, an emergency room physician, had delivered our other children, and would do it again this time. At 36 weeks of pregnancy, however, all of our dreams and happy expectations came crashing down around us. My doctor ordered an ultrasound that detected what all of my previous prenatal testing had failed to detect, an encephalocoele. Approximately two-thirds of my daughter's brain had formed outside her skull. What I thought were big, healthy, strong baby movements were in fact seizures.

''My doctor sent me to several specialists, including a perinatologist,'' I am sorry, I am so upset about this I can hardly speak, ''a pediatric radiologist and a geneticist, in a desperate attempt to find a way to save her. But everyone agreed, she would not survive outside my body. They also feared that as the pregnancy progressed, before I went into labor, she would probably die from the increased compression in her brain.

''Our doctors explained our options, which included labor and delivery, C-section, or termination of pregnancy. Because of the size of her anomaly, the doctors feared that my uterus might rupture in the birthing process, possibly rendering me sterile. The doctors also recommended against a C-section, because they could not justify the risks to my health when there was not hope of saving Abigail.'' No hope of saving Abigail.

''We agonized over our options. Both Bill and I are medical professionals. I am a registered nurse, and Bill is a physician. So we understood the medical risks inherent in each of our options. After discussing our situation extensively and reflecting on our options, we made the difficult decision to undergo an intact D&E.

''Losing Abigail was the hardest thing that ever happened to us in our lives, but I am grateful,'' I am grateful, ''that Bill and I were able to make this decision ourselves and that we were given all of our medical options. There will be families in the future faced with this tragedy. Please allow us to have access to the medical procedures we need. Do not complicate the tragedies we already face.''

Oppose this bill.

The SPEAKER pro tempore. The gentlewoman's time has expired.

Mrs. MYRICK. Mr. Speaker, I yield myself such time as I may consume.

We have had a lot of debate this morning on this issue, and we will have a lot more debate on this issue as we go through the actual bill and not just the rule; and I hope the American people can see what we are talking about. I still find it very hard to believe as a mother, a grandmother, and a great-grandmother that anybody could allow this horrific procedure to happen to their child.

So I urge my colleagues to vote in favor of the rule and to vote in favor of the underlying legislation so it can finally be passed into law and signed by our President.

Mr. Speaker, I yield back the balance of my time, and I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

Mr. SENSENBRENNER. Mr. Speaker, pursuant to House Resolution 383, I call up the conference report accompanying the Senate bill (S. 3) to prohibit the procedure commonly known as partial-birth abortion, and ask for its immediate consideration.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. Pursuant to House Resolution 383, the conference report is considered as having been read.

(For conference report and statement, see proceedings of the House of September 30, 2003 at page H 8991.)

The SPEAKER pro tempore. The gentleman from Wisconsin (Mr. SENSENBRENNER) and the gentleman from New York (Mr. NADLER) each will control 30 minutes.

The Chair recognizes the gentleman from Wisconsin (Mr. SENSENBRENNER).

GENERAL LEAVE

Mr. SENSENBRENNER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on S. 3, the conference report currently under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

Mr. SENSENBRENNER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the Partial-Birth Abortion Ban Act of 2003 would prohibit the gruesome and inhumane procedure known as partial-birth abortion that unfortunately we are now all too familiar with. An abortionist who violates this ban would be subject to fines, a maximum of 2 years imprisonment, or both. This ban includes an exception for those situations in which a partial-birth abortion is deemed necessary to save the life of the mother.

After two Presidential vetoes, this ban will finally become law and the performance of this barbaric procedure will come to an end. I am pleased to bring this conference report, which is the product of a House and Senate conference meeting held earlier this week, before the House. This bill, nearly identical to this conference report, passed the House of Representatives this summer by a 282 to 139 vote, and language identical to H.R. 760 passed the House last year by a 274 to 151 vote.

A partial-birth abortion is an unsafe procedure that is never medically necessary and should be prohibited. Contrary to the claims of partial-birth abortion advocates, this brutal procedure remains an untested, unproven, and potentially dangerous procedure that has never been embraced by the medical profession. As a result, the United States Congress, after receiving and reviewing extensive evidence, voted to ban partial-birth abortions during the 104th, 105th, and 106th Congress, and at least 27 States enacted bans on this procedure. Unfortunately, the two Federal bans that reached President Clinton's desk were promptly vetoed.

In June 2000, the United States Supreme Court struck down Nebraska's partial-birth abortion ban, which was similar, but not identical, to bans previously passed by Congress. In Stenberg v. Carhart, the court concluded that Nebraska's ban did not clearly distinguish the prohibited procedure from other more commonly performed second-trimester abortion procedures. The court also held, on the basis of the highly disputed factual findings of the district court, that the law was required to include an exception for partial-birth abortions deemed necessary to preserve the health of a woman.

The conference report's new definition of a partial-birth abortion addresses the court's first concern by more clearly defining the prohibited procedure than the statute at issue in Stenberg. The conference report also addresses the court's second objection to the Nebraska law by including extensive congressional findings, based upon medical evidence received in a series of legislative hearings, that, contrary to the factual findings of the district court in Stenberg, partial-birth abortion is never medically necessary to preserve a woman's health, poses serious risk to a woman's health, and, in fact, is below the requisite standard of medical care.

□ 1130

The conference report's lack of a health exception is based upon Congress' factual determination that partial birth abortion is a dangerous procedure that does not serve the health of any woman. The Supreme Court has a long history, particularly in the area of civil rights, of deferring to Congress' factual conclusions. In doing so, the Court has recognized that Congress' institutional structure makes it better suited than the Judiciary to assess facts based upon which it will make policy determinations. Indeed, the Supreme Court has recognized that, as an institution, ''Congress is far better equipped than the Judiciary to amass and evaluate vast amounts of data bearing upon complex issues.'' As Justice Rehnquist has stated, the Court must be ''particularly careful not to substitute its judgment of what is desirable for that of Congress or its own evaluation of evidence for a reasonable evaluation by the legislative branch.''

Thus, in Katzenback v. Morgan, while addressing section 4(e) of the Voting Rights Act of 1965, the Court deferred to Congress' factual determination that section 4(e) would assist the Puerto Rican community in gaining nondiscriminatory treatment in public services, stating, ''It is not for us to review the congressional resolution of the various issues it had before it to consider. Rather, it is enough that we are able to perceive a basis upon which the Congress might resolve the conflict as it did.''

Similarly, in Fullilove v. Klutznick, when reviewing the minority business enterprise provision of the Public Works Employment Act of 1977, the Court repeatedly cited and deferred to the legislative record the factual conclusions of Congress to uphold the provisions as an appropriate exercise of congressional authority.

The conference report's critics cite to Boerne v. Flores for support of their argument that the Court will strike this ban down. Yet Boerne addressed Congress' authority to determine the scope of rights protected by the Constitution, not the issue of whether Congress' factual determinations should be overruled by a court.

In Boerne, the Court explicitly confirmed that Congress' factual conclusion should be granted great weight, stating that it is for Congress in the first instance to determine whether and what legislation is needed to secure the guarantees of the 14th amendment and its conclusions are entitled to much deference, and that this judicial deference in most cases is based not on the state of the legislative record Congress compiles but on due regard for the decision of the body constitutionally appointed to decide.

Boerne does not stand for the proposition that Congress is bound to reach the same factual conclusions as the trial court did in Stenberg, particularly when Congress has reviewed extensive credible evidence, evidence that is more complete than the evidentiary record facing the Stenberg trial court, that directly contradicts the trial court's conclusions.

Substantial evidence presented and compiled at extensive congressional hearings, much of which was compiled after the District Court hearing in Stenberg and thus not included in the Stenberg trial record, demonstrates that a partial birth abortion is never necessary to preserve the health of a woman. The vast majority of partial birth abortions are performed on normal babies during normal pregnancies. Obstetricians who regularly treat patients suffering from serious medical complications during pregnancy or serious life-threatening fetal abnormalities utilize established, safe medical procedures, not the partial birth abortion procedure.

Previous bills that were nearly identical to this conference report enjoyed overwhelming support from Members of both parties precisely because of the barbaric nature of the procedure and the dangers it poses to women who undergo it. Implicitly approving such a brutal and inhumane procedure by choosing not to prohibit it will further coarsen society to the humanity of not only newborns but all vulnerable and innocent human life. Fortunately, we are only weeks if not days away from putting an end to partial birth abortions. I urge my colleagues to vote for this conference report.

Mr. Speaker, I reserve the balance of my time.

Mr. NADLER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, today we have a very bad combination: Members of Congress who want to play doctor and Members of Congress who want to play Supreme Court. When we put the two together, we have a description for some very bad medicine for the women of this country.

Today's vote is different from previous votes. Every Member of this House should understand that this is not a free vote. This legislation will become law unless we stop it. We cannot count on the Senate, we cannot count on the President, and remember that this President is trying to pack the Supreme Court with reactionary justices. If this bill becomes law, it will be the first time since Roe vs. Wade was decided that Congress will have acted to criminalize the constitutional right to choose.

No one should think it will end here. This is only the first, not the last, bill that people who want to turn back the clock will bring forward. If my colleagues do not believe that this bill is intended as a direct assault on Roe, they should ask themselves why was a nonbinding statement supporting the right to choose pursuant to Roe and opposing efforts to overturn it dropped from the bill in the conference committee? Do not be fooled. Do not listen to what they say. Look at what they are doing.

Although this bill is blatantly and facially unconstitutional, the Supreme Court's decision striking down an almost identical Nebraska statute was a close vote. This administration is determined to pack the Court with justices committed to eliminating the fundamental right to keep government out of the most personal decisions involving women's life and health. So even though this bill is blatantly unconstitutional according to the Supreme Court, one cannot count on the Supreme Court maintaining that view if the President succeeds in packing it with reactionaries, which is why this bill is before us.

We will not find the term ''partial birth abortion'' in any medical textbook. The authors of this legislation prefer the language of propaganda to the language of science.

For one thing, the rhetoric behind this bill is really a rhetoric aimed at late-term abortion, at fetuses that look like human beings, that are almost born; late-term fetuses, as people understand the term. The fact is, though, that if we want to ban late-term abortions, I do not think there will be many people in this Chamber who would oppose that. Forty-one States have done so against almost no opposition.

The Supreme Court has said that we have the power to ban abortions after viability. Most States have done so. If the horror that is to be addressed, the alleged horror that is to be addressed is as described, just put in a bill that says no abortions after fetal viability. Very few people would oppose it. It would pass, and that would take care of the problem. But that amendment was also defeated in conference because that is not the intent here.

One of the problems with this bill from a constitutional point of view is that the term is so vaguely defined that it could easily refer to various different procedures that are necessary in second trimester, not late term, but second trimester, pre-viability abortions, when there are certain health problems attendant on the pregnancy. This bill is intended to forbid that, too, and to chill doctors from performing certain techniques which may be the best from a health point of view in second trimester abortions lest they have

a prosecution under this bill, even though it is not clearly defined.

This bill reads as if the authors carefully studied the Supreme Court's decisions and then went out of their way to thumb their noses at 30 years of clear law. Unless the authors think that when the Court has made repeated and clear statements over 30 years of what the Constitution requires that the Court was just pulling our leg, this bill must be considered facially unconstitutional.

Outrageously, both from a substantive point of view and a constitutional point of view, there is no health exception. A partial birth abortion as defined would be prohibited even where necessary to preserve the health of the mother. That is just outrageous on its face. But, in addition to this, the Supreme Court has repeatedly said that we must have a health exception in a bill even with respect to post-viability abortions if that bill is going to be constitutional. We cannot prohibit abortions or abortion procedures necessary to save the life or health of the mother.

The exception for a woman's life in this bill is so narrow that it violates the Constitution and will place doctors in the position of trying to guess just how grave a danger to her life a pregnancy must pose to a woman before they can be confident that protecting her will not result in jail time.

I know that some of my colleagues do not like the clear requirements of the Constitution, but that is the law of the land, and no amount of rhetoric will change that. The drafters of this bill, as the distinguished chairman said a few minutes ago, say that the findings included in the bill, the findings that so-called partial birth abortions are never medically necessary, that these findings get around the constitutional requirement as established by the Supreme Court, that a medical procedure necessary to preserve the life or health of a woman cannot be denied. But Congress is not a doctor, and certainly Congress is not the doctor in a particular procedure performed on a particular woman. Only her doctor, who knows her medical condition, can decide what is medically necessary.

The Supreme Court has made clear that it is not interested in Congress' findings of fact, despite what the distinguished chairman said. Boerne and other cases, though they pay lip service to Congress' findings of fact, toss them out routinely. The Supreme Court will not ignore the significant body of medical opinion contradicting what the sponsors of the bill say.

Many supporters of this bill think all abortion is infanticide. They are entitled to their view, but it is not the mainstream view. This bill would foist this fringe belief on American women. This bill would criminalize abortions in the second trimester and turn doctors treating women with dangerously deformed fetuses, those that can never be born alive, into criminals.

We could prohibit post-viability abortions in situations in which a woman's life and health is not in jeopardy, but this bill does not do that. That is where the abortion itself would not put the woman's life or health in jeopardy. But that is not what this bill does. Forty-one States, as I said already, ban post-viability abortions. Almost nobody would oppose that bill. But that is not this bill.

Randall Terry, the founder of Operation Rescue, and one of the most radical opponents of a woman's right to choose, has called this bill a political scam and a public relations gold mine. He is right. The real purpose of this bill is not as we have been told, to save babies, but to save elections. Unfortunately, today, women's health takes a back seat to politics and political extremism.

Hopefully, the Constitution still serves as a bulwark against such efforts. Regrettably, we cannot be sure the current efforts to pack the courts will not succeed. We should all vote today as if women's lives depend on it. They do. And I hope this Chamber, this House will reject this bill, as it ought to.

Mr. Speaker, I reserve the balance of my time.

Mr. SENSENBRENNER. Mr. Speaker, I yield 5 minutes to the gentleman from Ohio (Mr. CHABOT), the chairman of the Subcommittee on the Constitution.

Mr. CHABOT. Mr. Speaker, I thank the gentleman for yielding me this time and for his leadership on this important issue.

It has been almost a decade since the gruesome practice of partial birth abortion escaped the shadowy corners of the abortion clinics and was revealed to the public. In the years that followed, we have seen an overwhelming majority of the American people, many in the medical community, and a bipartisan coalition of lawmakers at all levels of government push for an end to this barbaric procedure.

In fact, the first initiative in Congress to ban partial birth abortions started with a small group of us back in 1995. When I first learned that these horrific acts were occurring, I thought for sure that they would be outlawed at least by the time we celebrated the new millennium. Yet Presidential vetoes, confounding court decisions, and tenacious partial birth abortion advocates have maintained this particularly troubling form of abortion in this country.

We stand here today, having overcome many obstacles, with a strong bipartisan majority in the House ready to stop a procedure that is akin to infanticide, with a President willing to stand up for the culture of life in America, with constitutional legislation that should satisfy any unbiased and open-minded court.

Of course, we will still hear vocal protests on the floor today and in the courts once this bill becomes law. Contrary to the claims of partial birth abortion advocates, however, this barbaric procedure has never been embraced by the mainstream medical community and remains untested, unproven, and absolutely dangerous.

The most common assertion that a partial birth abortion is necessary to preserve the health of the mother is simply inconsistent with the overwhelming weight of authority. Virtually all evidence, including information we obtained at extensive legislative hearings, demonstrates that partial birth abortion is dangerous to women and is never medically necessary to preserve a woman's health. In fact, according to the American Medical Association, and I quote, ''There is no consensus among obstetricians about its use;'' and, ''It is not in the medical textbooks.''

□ 1145

Even Dr. Warren Hern, the author of the standard textbook on abortion procedures, has testified that he had ''very serious reservations about this procedure,'' and he would ''dispute any statement that this is the safest procedure to use.''

Those who continue to espouse the view that partial-birth abortion may be the most appropriate abortion procedure for some women in some circumstances have failed to identify such circumstances. Most in the mainstream medical community continue to view partial-birth abortion as nothing more than an experimental procedure, the safety and efficacy of which has never been confirmed. The American Association of American Physicians and Surgeons wrote to me earlier this year and stated ''partial-birth abortion has no medical indications. We can conceive of no circumstance in which it would be needed to save the life or preserve the health of a mother.'' Clearly, women deserve better than this.

Partial-birth abortion is also brutal and inhumane to the nearly-born infant. Virtually all of the infants subjected to this procedure are alive and feel excruciating pain. In fact, the infant's perception of painful stimuli at this stage of development is more intense than that of newborn infants and older children.

In testimony to the Senate Committee on the Judiciary, Brenda Pratt Schaefer, a registered nurse, captured the true horror of partial-birth abortion. Ms. Schaefer observed Dr. Martin Haskell, who first introduced this rogue procedure to the abortion community over 10 years ago, use the partial-birth abortion procedure on at least three different babies. Describing what she saw performed on a child who was 26½ weeks along, she testified, ''Dr. Haskell went in with forceps and grabbed the baby's legs and pulled them down into the birth canal, then delivered together the baby's body and the arms, everything but the head. The doctor kept the head right inside the uterus. The baby's little fingers were clasping and unclasping and his little

feet were kicking. Then the doctor stuck the scissors in the back of his head and the baby's arms jerked out like a startle reaction, like a flinch, like a baby does when he thinks he is going to fall. The doctor opened up the scissors, stuck a high-powered suction tube into the opening and sucked the baby's brains out. Now the baby went completely limp. He cut the umbilical cord and delivered the placenta. He threw the baby in a pan along with the placenta and the instruments he had just used. I saw the baby move in the pan. I asked another nurse and she said it was just reflexes. That baby boy had the most perfect, angelic face I think I have ever seen in my life.'' That is what this nurse said when she saw this happen.

I ask my colleagues in the House to quickly approve our conference report so we may send this important legislation to the President. Every day that we delay is another day that an unborn baby boy suffers unconscionably. Every day that we delay is another day that a baby girl's life is brutally ended. Every day that we delay is another day that we continue to live this national tragedy.

Mr. NADLER. Mr. Speaker, I yield myself 1 minute to comment on some of what we just heard.

Mr. Speaker, the American Medical Women's Association, an organization of 10,000 women physicians and medical students dedicated to promoting women's health and advancing women in medicine, states, ''We recognize this legislation is an attempt to ban a procedure that in some circumstances is the safest and most appropriate alternative available to save the life and health of the woman.''

The American Public Health Association with 50,000 members from over 50 public health occupations writes the same. So to say it is universally recognized that there is no medical necessity for the procedures described in this bill or perhaps described in the imprecise definition of this bill is not correct.

Mr. Speaker, I yield 1½ minutes to the gentlewoman from Wisconsin (Ms. BALDWIN).

Ms. BALDWIN. Mr. Speaker, I rise today in strong opposition to the conference report on partial-birth abortion. This legislation injects government into the private medical decisions made by a woman, her family, and her doctor; and in so doing, this bill violates a fundamental principle at the heart of the doctor-patient relationship, that the doctor in consultation with the patient and based on that patient's individual circumstances must choose the most appropriate method of care for the patient.

I would like to remind my colleagues that with a very small handful of exceptions, we are not trained physicians. We have no business interfering with a woman's medical privacy. Additionally, this bill is unconstitutional because it does not contain an exception to protect the health of the mother. Simple humanity alone should be sufficient to justify a health exception. But if my colleagues need more, the U.S. Supreme Court held in Stenberg v. Carhart that the Nebraska ban was unconstitutional because there was no health exception for the mother.

Mr. Speaker, why would we pass something that is already known to be unconstitutional? Simply put, this bill prevents doctors from doing their jobs and will prevent physicians from providing the best and safest care for their patients. I urge my colleagues to reject the conference report before us.

Mr. SENSENBRENNER. Mr. Speaker, I yield 1 minute to the gentlewoman from Tennessee (Mrs. BLACKBURN).

Mrs. BLACKBURN. Mr. Speaker, I rise today in support of the conference report on the partial-birth abortion ban. Every year thousands of women are subjected to this traumatic medical procedure. It is routinely used during the fifth and sixth months of pregnancy. I know it sounds horrendous, and it is horrendous because it kills the baby just seconds before he or she takes their first breath.

This congressional body must act now to preserve the future of the next generation and of their mothers, or this Nation will reap the horrible consequences of allowing partial-birth abortion to continue. Some opponents like to say that it is safe, that the procedure is safe, and they are wrong. They have not informed the public on the effects of this practice on women. Numerous medical practitioners and the AMA have testified in committee that partial-birth abortion is never medically necessary in any situation and is severely below the standard of good quality care. Partial-birth abortion seriously threatens a mother's health and her ability to carry her future children to term. I urge my colleagues to remember their duty and vote for the conference report.

Mr. NADLER. Mr. Speaker, I yield 2½ minutes to the gentlewoman from California (Ms. LOFGREN).

Ms. LOFGREN. Mr. Speaker, I think it is important that America understand what is going on here today. This is more about 30-second ads in the next political campaign than it is about what is right and wrong.

I was a member of the conference committee, and we offered to reach across the aisle and do something that I think we can all agree on, which is to say that late-term abortions should not be an elective procedure; and I actually strongly believe that. You should not have a late-term abortion unless there is some overwhelming need, either you are going to die or there is going to be a very serious health consequence if it is not done. Only then, if that is not the case, does the government have a right to step in.

I look at this bill and I see the findings are just not correct. To say that this is never medically necessary is simply not true.

Mr. Speaker, the Congressmen in the conference committee and here in the House talk about these circumstances as if they actually knew what was going on. As it turns out, I actually know Vicki Wilson personally. Her mother-in-law, Susie Wilson, and I served together on the board of supervisors, and I remember when Susie found out that her daughter-in-law's pregnancy had gone terribly wrong. It was in the eighth month. They found out that the child they hoped to have, they had picked a name already, Abigail, that the brains had formed completely outside the cranium. There was no way that they were going to have a healthy child. And so the question soon became how was Vicki going to survive this, number one; and, number two, survive it so she and her husband, Bill, who is also a doctor, might have a child. They wanted to have a daughter.

Susie Wilson called me and my colleague on the board, Dianne McKenna, throughout the 2 days that this procedure, which, by the way, is not called partial-birth in the medical terminology, was going on; and Susie stayed with her daughter-in-law throughout the procedure.

To say that a bunch of Congressmen know what is best for this family is really an insult to the American people, and especially to women. So American women, watch out, these Congressmen are wanting to decide whether you survive and have a chance to have another child, and really to make the most personal decision for you instead of you making it with your husband and doctor. I think it is wrong, and I hope that we turn this bill down.

Mr. SENSENBRENNER. Mr. Speaker, I yield 2 minutes to the gentleman from Virginia (Mr. FORBES).

Mr. FORBES. Mr. Speaker, I rise today with great anticipation that our Nation is nearing the end of a tragic chapter in our American history, one in which the most helpless among us are vulnerable to the most heinous crimes. I believe that, with the passage of the partial-birth abortion ban, we will look back and remember this day as the day that America began to find its way back to its conscience.

Today we will hear people talking about choice when they know this bill is not about choice. We will hear about them talk about abortion, and this bill is really not about abortion. This bill substantively is about one procedure, one procedure that is so painful to an unborn baby that even the most extreme proponent of abortion has to look at it and say it shocks even their conscience.

This bill is simply about preventing egregious and unnecessary pain to an unborn child. Or if Members want to pick a different nomenclature, a fetus.

While everyone is entitled to his or her own opinion, people are not entitled to their own facts. On partial-birth abortion, the facts are out. The facts are clear. Partial-birth abortion is

never really medically necessary. Partial-birth abortion is not a rare procedure. It happens many times, and it is not limited to mothers or babies who are in danger. It is performed on healthy women and healthy babies, and that is what the facts are.

The overwhelming testimony is that an unborn child experiences more pain at this particular juncture than it does even after it is born. This bill is not about having an abortion; it is about whether or not you can have a partial-birth abortion. Partial-birth abortion is repugnant to civilized society. Partial-birth abortion goes beyond abortion on demand. The baby involved is not unborn. This procedure is infanticide, and its cruelty stretches the limits of human decency.

This issue comes down to one simple question: Is there no limit, is there no amount of pain, is there no procedure that is so extreme that we can apply to this unborn child or this fetus that we are willing as a country to say that just goes too far?

Mr. Speaker, partial-birth abortion goes too far, and I hope we will pass this conference report.

Mr. NADLER. Mr. Speaker, I yield 2 minutes to the gentlewoman from California (Ms. LINDA T. SÁNCHEZ).

Ms. LINDA T. SÁNCHEZ of California. Mr. Speaker, I rise in opposition to the conference report on S. 3, in opposition to the underlying bill, the so-called Partial-Birth Abortion Ban Act of 2003, and in strong opposition to passing legislation that endangers the health of women and violates the U.S. Constitution.

Make no mistake about it, S. 3 endangers the health and safety of women. If this bill is signed into law, Congress will take the extraordinary step of banning a medical procedure that many physicians have concluded is safe for women.

□ 1200

In fact, the American College of Obstetricians and Gynecologists concluded in their September, 2000, statement of policy that the procedure banned under S. 3 may be ''the best or most appropriate procedure in a particular circumstance to save the life or preserve the health of a woman.''

Congress should not second-guess the expertise of physicians. Likewise, Congress should not interfere with the doctor-patient relationship and limit the options available to women to protect their health. But this is exactly what the so-called Partial-Birth Abortion Ban Act of 2003 does. It endangers women's health by making a procedure that is the safest option for many women illegal and unavailable.

However, the Partial-Birth Abortion Ban Act does not stop at endangering a woman's health. This bill also blatantly violates the Constitution of the United States. In the Stenberg decision, the Supreme Court struck down a Nebraska statute that is practically identical to the legislation we are talking about today. The Supreme Court struck down the Nebraska statute as unconstitutional because it failed to contain a provision that would provide an exception to the ban when the procedure is necessary to preserve the life or the health of the woman.

Despite the Supreme Court's clear and explicit ruling that a law banning partial-birth abortion procedures must have an exception to protect the life or health of the mother, the drafters of S. 3 have refused to include the exception when the procedure is necessary to protect the health of the mother. By failing to include this health exception, the law is unconstitutional.

I oppose this conference report and urge my colleagues to do the same.

Mr. SENSENBRENNER. Mr. Speaker, I yield 2 minutes to the gentlewoman from Pennsylvania (Ms. HART).

Ms. HART. Mr. Speaker, I thank the gentleman from Wisconsin for the opportunity to rise in support of this conference report. No fewer than 77 percent of the general public supports a ban on this horrible procedure known as partial-birth abortion. 77 percent. No fewer than 25 States have passed laws banning this procedure. Since 1995, this House has passed a ban on this procedure in every session, the 104th, the 105th, the 106th, the 107th; and now the 108th Congresses support this ban.

Our opponents tell us that this law would be unconstitutional. It is clear that the committee has addressed the concerns of the Stenberg court. It is clear that this is a gruesome procedure which should never be allowed in a civilized society. Today is the day we will finally complete our task. We are going to vote on the side of civilization and compassion.

I wonder where we would be headed if we would continue to be a society that allowed this type of gruesome procedure, but fortunately today we are going to win, and a lot of innocent babies are going to win. A lot of innocent women are going to win. We are getting the point across and certainly have gotten it across to the general public that partial-birth abortion crosses the line. Partial-birth abortion nears infanticide, as former Senator and the late Daniel Patrick Moynihan had stated.

I am proud to be a supporter of this bill. I am proud that this House has passed it consecutively and patiently redrawn it to make sure that it comports with the Constitution. I urge my colleagues to support this conference report. I commend the chairman of the Subcommittee on the Constitution and the chairman of the Committee on the Judiciary for supporting this. I urge a positive vote on the conference report.

Mr. NADLER. Mr. Speaker, I yield 2½ minutes to the gentlewoman from California (Ms. WATSON).

Ms. WATSON. Mr. Speaker, I rise today in strong opposition to the so-called partial-birth abortion ban conference report. This legislation is dangerous and deceptive; it is politically driven and filled with mischaracterizations for the sole purpose of inflaming the abortion debate. I strongly urge my colleagues to defeat this report.

Everyone in this House knows that ''partial birth'' is a political term, not a medical term. It was invented as political rhetoric designed to erode the protections of Roe v. Wade. In fact, the bill that passed the House this Congress would apply to more than just a single abortion procedure, the intact D&E or the D&X procedure, to include prohibitions on abortions well before viability. It is clear that the bill opens up a slippery slope where its ultimate goal is to ban abortion entirely.

The partial-birth abortion ban is opposed by numerous medical and health organizations. Among them are the American College of Obstetricians and Gynecologists, the American Medical Women's Association and America Public Health Association, and the Medical Association of my State, California. All of these groups understand how the ban prevents women from receiving the level of medical care that would ensure their safety and their well-being. Most importantly, they recognize the fact that such medical care decisions must be left to the judgment of the physician and the woman.

We need to stop playing doctors here in this governmental institution. It is an intrusion into the woman's physical and mental health. No one on this floor is qualified to make that decision. The access to abortion is a constitutionally guaranteed protection. It is a private medical decision that should not be dictated by the Federal Government. I urge a strong ''no'' on this conference report.

Mr. SENSENBRENNER. Mr. Speaker, I yield 1 minute to the gentleman from Pennsylvania (Mr. PITTS).

Mr. PITTS. Mr. Speaker, this truly is a historic moment in the House. I want to commend the chairman and the subcommittee chairman for their leadership on this issue.

The subcommittee chairman spoke about Brenda Pratt Shafer who, in 1993, a nurse with 13 years' experience, was assigned to an abortion clinic by her nursing agency. She was, quote, very pro-choice at the time. We have heard her actual words as she describes the procedure, what she saw. Ms. Shafer never returned to that clinic after witnessing that partial-birth abortion.

Those in favor of this procedure believe that Roe v. Wade is sacrosanct, that we should leave this pressing moral question to the whims of the unelected judges across the street. This type of abortion, partial-birth abortion, is more like a legal technicality. The baby must be delivered feet first so that the doctor actually forces the head to stay in the birth canal. Otherwise, he would be born and actually breathe. Most people would call this murder. But right now it is just a technicality.

There is no excuse for this procedure in a civilized nation. I urge my colleagues to vote for this conference report.

Mr. NADLER. Mr. Speaker, I yield 3 minutes to the distinguished gentlewoman from Texas (Ms. JACKSON-LEE).

(Ms. JACKSON-LEE of Texas asked and was given permission to revise and extend her remarks.)

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. ISAKSON). The Chair would ask the gentlewoman to remove the sticker.

Ms. JACKSON-LEE of Texas. Mr. Speaker, I think my words will speak to my commitment; and it is in support of the Immigrant Freedom Ride that is here on this campus asking for justice, as we ask today; and I want to thank the distinguished gentleman from New York for his leadership over the years on this issue, the constitutionality, if you will, of this issue.

Mr. Speaker, I have remarks that I will submit into the RECORD ably done by my staff member and doctoral candidate, Sophia King, but I think today it is important to chronicle the history of this because I know that my good friend and colleague who has been a leader on this, the gentleman from New York, knows that we have been almost 10 years of generating over and over this repetitive legislation, really defined by the Gingrich Congress of 1995.

The first time that I came to this Congress, I had the pleasure of serving on the Committee on the Judiciary with the Honorable Pat Schroeder; and we sat through a number of passionate statements by women who pleaded with the Committee on the Judiciary to not take the rights away from them, their families, their God and as well their physicians. Tragically, this Congress did not listen then; and we continue year after year after year not to listen.

I heard the passionate pleas of mothers who said, all I want to do is to procreate and to have a healthy child. We heard the testimony of physicians who articulated the fact that if that mother did not have the procedure so named partial-birth abortion, they would not be able to have the opportunity to give birth and to have a nurturing relationship with a child.

And, lo and behold, those who suggest that they will take the role of God and now indicate what doctors and family members and mothers and God have them to do, we have this abominable legislation again on the floor of the House with the real notion that this is not serious. Because if it was serious, it would be a provision that protected the health of the mother. That is not in there. If it was serious, they would listen to the American Medical Association, the American College of Obstetrics and Gynecologists.

Interestingly enough, my good friend previously on the floor indicts the Supreme Court that passed Roe v. Wade, and Roe v. Wade is good law of which they took out of the bill, the Senate language, he indicts the very Supreme Court that elected the President of the United States, or selected him. That is an interesting conflict from my good friends on the other side of the aisle.

I maintain that this is a frivolous piece of legislation; and if the States want to do it, Mr. Speaker, then let them do it. But how dare you put yourself, this body, in the seat or the place of a mother who has seen a tragedy occur that will eliminate her opportunity to procreate. How dare we do it. This should be voted down, and we should never see this travesty come again and never take up the Supreme Court and indict them when they elected the very person that serves in the White House today.

Mr. Speaker, I rise in opposition to the Partial Birth Abortion Ban Conference Report (S. 3). Once again this body is considering anti-choice legislation that is unconstitutional and dangerous to women's health. I oppose this legislation and will continue to oppose any attempt to criminalize a woman's constitutional right to choose.

Contrary to repeated anti-choice claims, this bill does not ban only one procedure. S. 3 is not constitutional and the public as well as the medical community does not support this legislation. A recent poll confirms that a solid majority of Americans (61 percent) opposes this legislation because it fails to protect women's health.

This legislation is not only unconstitutional but it is yet another attempt to ban so-called ''partial birth abortions.'' This is a non-medical term. The U.S. Supreme Court struck down a similar statute in Stenberg v. Carhart. The Court invalidated a Nebraska statute banning so-called ''partial birth abortions.'' So, this legislation is at odds with the court's ruling. In Roe v. Wade, the court held that women had a privacy interest in electing to have an abortion, based on the 5th and 14th Amendments' concept of personal liberty.

Despite the fact that the Supreme Court struck down legislation virtually identical to S. 3 in the year 2000, anti-choice Members of Congress continue to jeopardize women's health by promoting this legislation to advance their ultimate goal of eliminating a woman's right to choose altogether. The Supreme Court struck down legislation calling for a so-called ''Partial Birth Abortion Ban'' just two years ago. So-called ''partial-birth abortion'' would ban safe, pre-viability abortions in violation of a woman's right to choose.

This type of legislation ignores the Supreme Court's explicit directive that women's health must be of the utmost concern. The Supreme Court, during the twenty-nine years since it recognized the right to choose abortion, has consistently required that when a State restricts access to abortion, a woman's health must be the paramount consideration. Just two years ago, the Supreme Court stated unequivocally that every abortion restriction—including bans on so-called ''partial-birth abortion''—must contain a health exception that allows an abortion when ''necessary, in appropriate medical judgment, for the preservation of the life or health of the mother.'' Carhart, 530 U.S. at 931.

Directly ignoring the Supreme Court's ruling, so-called ''Partial Birth Abortion Ban'' legislation does not allow an abortion necessary for a woman's health.

In Carhart, the Supreme Court rejected the argument made by this bill's sponsors that the legislation need not contain a health exception because intact dilation and extraction (''intact D&E'' or ''D&X'') is never necessary for a woman's health. The Supreme Court stated that a law that ''altogether forbids D&X creates a significant health risk,'' and therefore, is unconstitutional. Carhart, 530 U.S. at 938.

This bill would ban safe medical procedures, imposing an undue burden on women. The bill's sponsors use rhetoric about full-term fetuses, but this bill would ban abortions performed before a fetus is viable. Like the law before the Supreme Court in Carhart, ''even if the statue's basic aim is to ban dilation and extraction (D&X,) its language makes clear that it also covers a much broader category of procedures,'' and therefore, imposes an unconstitutional burden on women. Carhart, 530 U.S. at 939.

Even if such legislation banned only intact dilation and extraction (''intact D&E'' or ''D&X'') abortions, it would compromise women's health. Legislation that contends that D&X is unsafe is simply untrue. If is a safe method of abortion and is within the accepted standard for care. ACOG has concluded that D&X is a safe procedure and may be the safest option for some women. And the Supreme Court explained in Carhart that ''significant medical authority supports the proposition that in some circumstances, D&X would be the safest procedure.'' 530 U.S. at 932. Indeed, the Court concluded that ''a statute that altogether forbids D&X creates a significant health risk.'' Id. at 938.

The D&X abortion procedure offers a variety of safety advantages over other procedures. Compared to D&E abortions, D&X involves less risk of uterine performation or cervical laceration because the physician makes fewer passes into the uterus with sharp instruments. There is substantial medical evidence that D&X reduces the risk of retained fetal tissue, a complication that can cause maternal death or injury. The D&X procedure is a safer option that other procedures for women with particular health conditions. Finally, D&X procedures usually take less time than other abortion methods used at a comparable stage of pregnancy, which can have significant health advantages.

In fact, as the American College of Obstetricians and Gynecologists (ACOG) has concluded, D&X may be ''the best or most appropriate procedure in a particular circumstance to save the life or preserve the health of a woman.''

This ban would undermine a physician's ability to determine the best treatment for a patient. Physicians must be free to make clinical determinations, in accordance with medical standards of care.

Allowing physicians to exercise their medical judgement is not only good policy—it ia also the law. In Stenberg v. Carhart, 530 U.S. 914 (2000), the Supreme Court ruled that all abortion legislation must allow the physician to exercise reasonable medical judgment, even where medical opinions differ. The Court made clear that exceptions to an abortion ban cannot be limited to situations where the health risk is an ''abortion necessity,'' nor can the law require unanimity of medical opinion as to the need for a particular abortion method. Id. at 937.

Mr. Speaker, women and their families, along with their doctors, are better than politicians at making decisions about medical care. Congress should not take decisions about medical treatment out of the hands of doctors and families. I must oppose this attempt to disregard the Supreme Court's clear message in Stenberg v. Carhart. Abortion bans that fail to protect a woman's health by banning safe abortion methods are unconstitutional.

PROPOSED AMENDMENT FOR CONFERENCE COMMITTEE MEETING ON S. 3

At the appropriate place, insert the following:

SEC. ___. SENSE OF THE SENATE CONCERNING ROE V. WADE.

(a) FINDINGS.—The Senate finds that—

(1) abortion has been a legal and constitutionally protected medical procedure throughout the United States since the Supreme Court decision in *Roe v. Wade* (410 U.S. 113 (1973)); and

(2) the 1973 Supreme Court decision in *Roe v. Wade* established constitutionally based limits on the power of States to restrict the right of a woman to choose to terminate a pregnancy.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that—

(1) the decision of the Supreme Court in *Roe v. Wade* (410 U.S. 113 (1973)) was appropriate and secures an important constitutional right; and

(2) such decision should not be overturned.

Mr. SENSENBRENNER. Mr. Speaker, I yield 2 minutes to the gentleman from Wisconsin (Mr. RYAN).

Mr. RYAN of Wisconsin. Mr. Speaker, first, I want to congratulate my colleague from Wisconsin, the chairman of the Committee on the Judiciary, for his leadership on this issue. This bill has been called an abomination, frivolous.

Let us quickly examine what a partial-birth abortion is. In a partial-birth abortion, the abortionist pulls a living baby, feet first, out of the womb and into the birth canal as we can see right here, except for the head, which the abortionist purposely keeps lodged just inside the cervix. The abortionist punctures the base of the baby's skull with a surgical instrument, like a long surgical scissor or a pointed hollow metal tube called a trocar. Then he inserts the catheter into the womb and removes the baby's brain with a powerful suction machine. This causes the skull to collapse, after which the abortionist completes the delivery of the now dead baby. That is what is occurring in America today. This is happening right now. This vote will stop this from happening. I urge all of us to pass this bill.

Mr. SENSENBRENNER. Mr. Speaker, will the gentleman yield?

Mr. RYAN of Wisconsin. I yield to the gentleman from Wisconsin.

Mr. SENSENBRENNER. Mr. Speaker, I commend the gentleman from Wisconsin for bringing this diagram to the floor of the House so that we may be able to graphically see how a partial-birth abortion is performed. The difference between a partial-birth abortion, which this bill will ban, and first-degree murder is three inches. Three inches. That is why this bill is not a travesty. This bill is a serious attempt to get rid of a gruesome and barbaric procedure. Anyone who does not think this procedure is gruesome and barbaric ought to look at the diagram that the gentleman from Wisconsin has presented to the House.

Mr. RYAN of Wisconsin. I thank gentleman for his leadership. I urge all of my colleagues, Democrat and Republican, to vote for this and to save lives.

Mr. NADLER. Mr. Speaker, I am pleased to yield 3 minutes to the distinguished gentlewoman from New York (Mrs. LOWEY).

Mrs. LOWEY. My colleagues, after commemorating the 30th anniversary of the Supreme Court's decision in Roe v. Wade just 9 months ago, we are reminded again that a woman's right to choose is never secure. In the debate today over so-called partial-birth abortion, do not ever forget this is about Roe v. Wade. We are here because supporters of this bill disagree with the Supreme Court.

Let us be clear. This is not about outlawing one method of abortion. It is about restricting access to safe medical procedures throughout an entire pregnancy. Ultimately, it is about the right of all women to choose. Proponents of this legislation want to overturn Roe v. Wade and Stenberg v. Carhart and go back to the days when women had no options, when they left the country or died in back alleys.

□ 1215

In reflecting on the long debate over this bill starting in 1995, I remember something that I heard Justice Sandra Day O'Connor say once. She said that she was drawn to the law because she saw the role it plays in shaping our society. ''I don't think law often leads society,'' she said. ''It really is a statement of society's beliefs in a way.''

The proponents of this bill and I would likely agree with Justice O'Connor, except I believe that Roe v. Wade continues to express our society's beliefs, and they do not.

Roe said that the decision to terminate a pregnancy is private and personal and should be made by a woman and her family and her clergy without undue interference from the Government. I and the American people still believe that, supporters of this bill do not. Roe and Stenberg said that a woman must never be forced to sacrifice her life or damage her health in order to bring a pregnancy to term. The woman's health must come first and be protected throughout her pregnancy. I and the American people still believe this, supporters of the bill do not.

And Roe and Stenberg said that determinations about viability and health risks must be made for each woman by her physician. A blanket Government decree about medicine is irresponsible and dangerous. I and the American people still believe that, supporters of the bill do not.

I urge my colleagues to not be fooled today by those who claim that sufficient changes have been made so that this bill agrees with the principles outlined in Roe and Stenberg. Make no mistake. The bill before us today still does not contain the health exception, which means it is still unconstitutional. It still bans abortion throughout pregnancy, which means it is still unconstitutional. Congress is wrong to pass this by ban, and the President would be wrong to sign it. Mr. Speaker, we believe that women matter. We believe that their health and lives are irreplaceable and worth protecting. That is why we oppose this ban. I urge my colleagues to respect the law of the land and support the values in Roe v. Wade and Stenberg v. Carhart. Leave decisions in the hands of families. Protect the health of women.

Mr. SENSENBRENNER. Mr. Speaker, the next two speakers on our side are medical doctors. We have heard a lot about people playing doctor here.

Mr. Speaker, I yield 1 minute to the gentleman from Georgia (Mr. GINGREY), M.D.

Mr. GINGREY. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker let me just say this. What we are hearing from the opposition over and over again is that this is an attack on Roe v. Wade. It is not an attack on Roe. I will stand here and tell the Members that I think that January 22, 1973, will live on as a day in infamy, and I wish it had never happened, but this is not an attack on Roe v. Wade. This is an attack on one procedure, one abhorrent procedure called partial-birth abortion.

The other side wants to say that there is no medical terminology of ''partial-birth abortion.'' It is as much a medical terminology as to say taking somebody's appendix out or a gallbladder out is medical terminology. I do not know what euphemism they want to use for this procedure, but this is a partial-birth abortion. Someone said earlier that it is akin to infanticide. I am not a legal scholar, but to me it is infanticide because when one delivers that human outside the mother's womb, and it has a beating heart, it no longer is a fetus. It is an infant, and if they kill it at that point, and that is what partial-birth abortion is, then that is infanticide.

Vote for this conference report, both sides of the aisle.

Mr. NADLER. Mr. Speaker, I yield 1½ minutes to the distinguished gentlewoman from California (Ms. LEE).

Ms. LEE. Mr. Speaker, I thank the gentleman for yielding me this time and also for his leadership.

I rise today in very strong opposition to this conference report that would deny women their constitutionally protected rights, endanger women's health and criminalize safe medical practices. This is an attack on Roe v. Wade. Mr. Speaker, this conference report represents yet another victory in this President's very aggressive and very hostile antiwoman agenda, and like

provisions of another attack on our civil rights, in this instance the Patriot Act, it is dangerous and it is unconstitutional. That is why if and when this fatally flawed and dangerous conference report is signed into law, it will be challenged in court.

Pregnancy and childbirth are among the most intimate and the most personal experiences of a woman's life. Meddling in these intensely private affairs violates our Constitution. Our freedom to choose is every woman's fundamental right. This should be a medical decision made between a woman, her family, and her doctor and her clergy. Government has no right to interfere. This bill is outrageous. It is reckless and it is unconstitutional. This conference report should be defeated here. Otherwise, the Supreme Court will rule it unconstitutional. Roe v. Wade must be upheld. Let us not go down this slippery slope and try to unravel it in this very dangerous and deceitful way. I urge my colleagues to vote no on this conference report.

Mr. SENSENBRENNER. Mr. Speaker, I yield 1 minute to the gentleman from Texas (Mr. BURGESS), M.D., for another medical opinion.

Mr. BURGESS. Mr. Speaker, I thank the Chairman for yielding me this time.

Mr. Speaker, I am a physician who has dedicated my life to the healthcare of women. I have delivered over 3,000 babies. The only reason to select the partial-birth abortion procedure is to ensure that a baby is dead when it is delivered. As a doctor, I recognize that serious complications can occur during the last trimester of pregnancy. However, if the mother's health dictates that the pregnancy must be concluded and a normal birth is not possible, the baby may be delivered by C-section. Whether the infant lives or dies in that scenario depends on the severity of the medical complications and the degree of prematurity, but that outcome is dictated by the disease process itself. The fate of the infant during this procedure, the partial-birth abortion procedure, is predetermined by the nature of the procedure performed and is uniformly fatal to the baby.

In 1995, a panel of 12 doctors representing the American Medical Association voted unanimously to recommend banning the partial-birth abortion procedure, calling it ''basically repulsive.'' I agree with the AMA. It is repulsive. It is unnecessary. And, fortunately, it will soon be illegal.

Mr. NADLER. Mr. Speaker, I yield myself the balance of my time.

Mr. Speaker, we have heard repeatedly, including from the last speaker, that so-called partial-birth abortion is never a necessary procedure to save the life and health of the mother, but fact is the American College of Obstetricians and Gynecologists, and I am reading now from the committee report, minority views, ''the leading professional association of physicians who specialize in the health care of women, has concluded that the D & X'' procedure, which is one procedure described by partial-birth abortion, ''is a safe procedure and may be the safest option for some women. ACOG has explained that intact D & E, including D & X, is a minor, and often safer, variant of the 'traditional' nonintact D & E. ACOG has also stated that D & X 'may be the best or most appropriate procedure in a particular circumstance to save the life or preserve the health of a woman. Only the physician, in consultation with the patient and based on her circumstances, can make this decision.'''

That is why relying on this kind of medical evidence, ''the Supreme Court concluded in Stenberg that 'significant medical authority supports the proposition that in some circumstances D & X would be the safest procedure.' Indeed, the Court concluded that 'a statute that altogether forbids D & X creates a significant health risk.'''

So much for the so-called findings in this bill, the Supreme Court has already thrown them in the trash basket.

That is why, in addition to the American College of Obstetricians and Gynecologists, numerous other medical groups have publicly opposed attempts by Congress to pass this legislation, and among those which have labeled this legislation as injurious to women's health, and therefore they oppose it, are the American Public Health Association, the American Nurses Association, the American Medical Women's Association, the California Medical Association, the American College of Nurse Practitioners, the Association of Reproductive Health Professionals, the Association of Schools of Public Health, the National Association of Nurse Practitioners in Reproductive Health. And, finally, ''contrary to the claims of the sponsors of'' this bill, ''the American Medical Association does not support any criminal abortion ban legislation.''

So, Mr. Speaker, the Supreme Court has already said, in so many words, that any legislation that altogether forbids some of the kinds of procedures that would be described by this legislation creates a significant health risk for women, and, therefore, is unconstitutional.

Mr. Speaker, I said a moment ago that the arguments that this is never a medically necessary procedure are refuted by all the different medical groups that I named and by the specific findings of the Supreme Court in the Stenberg case. And all the nonsense about findings by Congress will not avail to make this bill constitutional against the finding by the Supreme Court. This is a Supreme Court that does not care that much about findings by Congress anyway, and that has said, in so many words, that a statute that altogether forbids D & X, one of the procedures that clearly would be outlawed by this bill, creates a significant health risk and an unconstitutional health risk.

So this bill is clearly unconstitutional. It is unconstitutional because it does not give people a right to do what the physician and the patient regard as the safest procedure to save the health and life of the mother, which the Supreme Court says they must do. But beyond that, this is clearly an assault on Roe v. Wade, whatever else anybody may say.

If it is not an assault on Roe, if it is not deliberately an assault, getting the nose under the camel's tent to try to ban all abortions, to try to say that women should not have the right to make this choice, to try to say that the men and women in this Chamber have more to say about a woman's health choice than she does herself, then why did the conferees, the members of the conference, remove the nonbinding language that said this did not attack Roe v. Wade? Because they were a little more honest. The Senate was a little more honest than the people in this House are being. They recognize this for what it is, an attack on Roe v. Wade, and, frankly, the majority Members of the House also wanted to remove that language, and they were honest the day before yesterday.

So, Mr. Speaker, the current Supreme Court clearly considers this unconstitutional. A future Supreme Court packed with reactionary appointees by the President might not. This puts at risk the right of women to choose. And the fundamental question here is, as it has always been, there are fundamentally different religious views about when life begins, about what is appropriate and what is not appropriate, and we are all entitled to our views, be they motivated by religion or moral fervor or whatever. What we are not entitled to do is to use the force of law to impose the religious views of some people on other people who do not agree with that and to say to a woman they must risk their life, they must risk their health because we do not think it is right for them to have an abortion. That is what this is about.

□ 1230

That is what this is about. The right to choose is the key right here, and this bill is a direct assault on that. Therefore, we ought to oppose it. It will be a sad day when this House passes this bill.

Mr. Speaker, I yield back the balance of my time.

Mr. SENSENBRENNER. Mr. Speaker, I yield the balance of my time to the distinguished majority leader, the gentleman from Texas (Mr. DELAY).

Mr. DELAY. Mr. Speaker, I want to thank the chairman of the Committee on the Judiciary, the gentleman from Wisconsin (Mr. SENSENBRENNER), for the work, long, long work that he has placed into this bill. The people of the United States owe the chairman a great debt; and more importantly, children owe the gentleman a great debt for his work on this issue.

Mr. Speaker, at the end of this long debate that actually began 10 years ago, the opponents of the Partial-Birth

Abortion Ban Act tell us that this bill will not save a single life. And I think we have to admit, it is a limited bill. After all, when we pass this bill, abortion will stay legal, its practitioners will remain in business, and heaven will still be crowded with America's invisible orphans. But its limitations are beside the point. Because like the children it protects, Mr. Speaker, the Partial-Birth Abortion Ban Act may be small, but not insignificant.

Make no mistake about it: our action today represents a big pivot in America's difficult answer to the abortion question. After a generation of bitter rhetoric, the American people have turned away from the divisive politics of abortion and embraced the inclusive politics of life.

Over the last 10 years, Americans on all sides of the abortion debate have learned about the partial-birth abortion procedure. They have recoiled at its barbarism and decided it has no place in a moral society. They have called on us to answer the muted cries of the innocent. Their message to us today and our message to the world is very simple: we can do better. For pregnant mothers, however desperate; for unborn children, however unwanted; and for our compassionate Nation, however divided. America can do better for them all, starting with the overdue prohibition on this cruel, dangerous, and medically unnecessary procedure.

But this, I say to my colleagues, is not a day of celebration. Passing this bill will be a victory, to be sure, but a victory for humanity, not just one side of this debate. It will be a victory for the democratic process, which the American people have engaged one heart at a time, not through the heat of public argument, but through the warmth of private conversation. And it will be a victory for a Nation of good and honest people who brought to this debate a thoroughly American respect for every opinion and for every life.

America can do better, Mr. Speaker, and by passing this bill today, at long last, we will.

Ms. SCHAKOWSKY. Mr. Speaker, I rise today to speak out loudly in opposition to the conference report on S. 3 and to urge my colleagues to vote against the report.

Once again, we have before us an unconstitutional and harmful bill. This bill would prevent doctors from being able to perform medically-necessary abortions. The government would prohibit doctors from acting to protect her patient's health, intruding into the doctor-patient relationship. The Supreme Court recognized this inequity and has already made such a law unconstitutional.

The leadership in this body insists that we ignore the Constitution and vote on this bill. Proponents of this bill refused to allow an exception for cases in which the mother's health was seriously at risk, and they refused to include language affirming the long-standing Supreme Court decision, Roe v. Wade.

Let's forget about the rhetoric we've been hearing from the proponents of this bill and talk about the truth. For us to be true to the Constitution, to be true to the sentiments of equality and freedom, women and must have control over their bodies. Instead, proponents of this bill, including the Bush Administration, are using this bill as part of a broader agenda to take away a women's Constitutionally guaranteed right to choose. This assault on a woman's right to control her body and her health must stop. I urge my colleagues to vote no on the Conference Report.

Mr. OBERSTAR. Mr. Speaker, this is a landmark day for those who, for more than 30 years, have worked to reduce the number of abortions performed in America. With today's vote on the Conference Report to accompany S. 3, The Partial-Birth Abortion Ban Act, we are finally closing in on the first statutory restriction on abortions—that is, other than appropriations restrictions—since the 1973 Supreme Court decision in Roe v. Wade.

I urge our colleagues in the other body to join the House in quickly passing the Conference Report and sending it to the President for signature.

This is also a good day for the legislative process, the art of compromise. Today we set aside our differences on various nuances of abortion and move by a decisive vote to ban a particular procedure, which—regardless of our differing views on the findings of Roe v. Wade—most of us find repugnant.

Because of what we do here today, there will be fewer abortions, more adoptions, and more healthy births in years to come in the United States. I take great comfort in that knowledge.

I am distressed, however, that so much of our legislative action the past 30 years in this body on the question of abortion has not had that result, but has instead polarized the views of those on both sides of the issue, while the number of abortions has continued to climb.

Today we take a step in the opposite direction. Instead of dividing, we have come together and have agreed that there should indeed be fewer abortions, at least with respect to this procedure. I sincerely hope that the comity we have achieved on partial birth will extend, in the future, to other aspects of the abortion issue.

Today I am proud of this body and proud of the process by which we serve our constituents.

Mr. BUYER. Mr. Speaker. I rise in support of this conference report to ban partial birth abortions. This is a good bill and a good day, though a long time in coming.

This measure bans a procedure in which a living fetus is partially delivered from the womb, and then destroyed prior to the completion of delivery. This is a particularly appalling procedure in which the difference between a complete birth and an abortion is a matter of a few inches in the birth canal.

There is an exception in the bill for instances in which the life of the mother is at risk and no other procedure will be sufficient to preserve the mother's life. Congress has conducted extensive hearings on this procedure. The medical evidence presented at these hearings indicates that a partial birth abortion is not necessary to preserve the health of the mother and is, in fact, dangerous to the mother. Partial birth abortion is ''not an accepted medical practice.'' This procedure offends most Americans who value the sanctity of life.

Partial birth abortion is a particularly cruel and inhuman procedure which should be banned. I urge the adoption of the conference report.

Mr. STARK. Mr. Speaker, I rise in strong opposition to this deceptive and dangerous conference report S. 3, brought to the floor today to ban what anti-choice lawmakers claim to be the so-called ''partial-birth'' abortion procedure. There is no medical procedure called a ''partial birth'' abortion. It is a political term, not a medical one. That is why what's happening today is so dangerous.

If this bill becomes law, it will be the first time since Roe v. Wade that performing an abortion procedure will be deemed a criminal act. Even more alarming, it will be the first time in this nation's history, that Congress will have ever banned a particular medical procedure. Make no mistake about it, what this bill does is put Congress in the position of making life and death medical decisions appropriately left to physicians.

Instead of dealing with the more pressing issues of the day—like the 44 million people who lack health insurance in this country, the 9 million people without jobs, or bringing our troops safely home from the war in Iraq—we are instead debating a safe medical procedure that is used only in very rare instances when a doctor determines it is the only procedure that can best protect the life or health of the woman.

In 2000, the Supreme Court struck down a Nebraska abortion ban, identical to this bill, as unconstitutional in Stenberg v. Carhart. The court found that the law unconstitutionally burdened a woman's right to choose by banning safe abortion procedures; and it lacked the constitutionally required exception to protect women's health. Both these constitutional flaws remain the bill before us today. This bill still lacks any health exception and remains vague so that it may be used to ban other safe abortion procedures in the future.

Anti-choice lawmakers have made claims today that the majority of Americans are in favor of banning what they understand to be partial birth abortions. But, a recent ABC News poll, found that 61% of Americans were in fact opposed to this legislation when they are informed that it lacks a health exception for a woman.

The most telling argument in this debate comes from our nation's medical community. They oppose this legislation. The American Medical Association, the American College of Obstetricians and Gynecologists, the American Medical Women's Association, the American Nurses Association and the American Public Health Association all oppose this ban. They know full well that it will override their medical decision-making in an unprecedented and potentially life-threatening way.

I believe that a woman's right to choose is a private and very personal choice, and should continue to remain that way. Women's decisions about their reproductive health—especially when it comes to something as personal as abortion—should between a woman, her family and her physician—not the U.S. Congress.

I ask my colleagues to stand up for the privacy of women and oppose unwarranted interferences in their personal decisions. I also ask my colleagues to recognize that the vast majority of us in Congress have no medical training and are in no way qualified to choose among particular medical procedures. Doctors should be making medical determinations, not politicians. Vote no on this bill.

Mr. VAN HOLLEN. Mr. Speaker, I rise today in strong opposition to the so-called ''partial birth abortion'' legislation before us today.

Neither the Congress nor the courts should tell a woman how to manage her health or reproductive care. Unfortunately, what should be a private matter between a woman and her doctor has become a political football.

Doctors, not politicians, should decide which surgical procedures are appropriate when a woman's health is in jeopardy. The anti-choice proponents of the bill have used highly misleading statements to cloak the true purpose of this bill—which is to scare doctors and deny women the right to choose a safe and legal abortion.

Here are the facts:

The bill does not ban only one procedure. ''Partial-birth'' is a political term, not a medical term. These bans are designed to inflame the abortion debate through heated, graphic rhetoric. In describing what is banned, the bill does not reference a recognized, established medical procedure. It does not exclude other procedures. In fact, the bill's language is deliberately vague, banning safe and common procedures.

The bill is not a ''late term'' abortion ban. Because the bill lacks any mention of fetal viability, it would ban abortions throughout pregnancy. In Roe v. Wade and its companion case, Doe v. Bolton, the Supreme Court held that a woman has the right to choose legal abortion until viability. The Court said that states may ban abortion after that time, as long as exceptions are made to protect a woman's life or her health. In fact, 41 states have laws that address post-viability abortions. The legislation now before Congress is designed, in part, to deceive lawmakers and the American public about when abortions occur. Don't be fooled.

The bill is not constitutional. In 2000, the Supreme Court found Nebraska's so called ''partial birth'' abortion ban unconstitutional in Carhart v. Stenberg. The Court found that: (1) the law unconstitutionally burdened a woman's right to choose by banning safe abortion procedures; and (2) it lacked the constitutionally required exception to protect women's health. These flaws are present in the bill now before Congress. The bill still lacks any health exception, and its deliberately vague language still bans more than one procedure.

These bans are not supported by the medical community. Contrary to repeated anti-choice claims, the American Medical Association does not support this legislation. Furthermore, respected health organizations such as the American College of Obstetricians and Gynecologists, the American Medical Women's Association, the American Nurses Association and the American Public Health Association oppose these bans.

I urge my colleagues to reject this bill that turns back the clock on womens' rights in this country.

Mr. VITTER. Mr. Speaker, today the House of Representatives is set to vote on the conference report on S. 3, the Partial-Birth Abortion Ban Act. After a number of years and several attempts, the best chance for success in finally outlawing this gruesome procedure is here before us today.

I believe abortion has no place in our society. Partial-birth abortion is a procedure clearly beyond the pale. Even the medical community has said that this procedure is, in fact, never medically necessary. For all of the rhetoric from the other side about doctors and health care, we should listen to that medical bottom line and today ban this horrific procedure. Those who have seen it firsthand, those who understand it and have researched it, know that we are talking about something so close to infanticide.

This conference report before us respects what the Supreme Court has told Congress about past bans, and we have worked to address their concerns in the best and most thorough manner. This conference report is constitutional, well-thought out, and has tremendous support nationwide.

I strongly support this conference report and urge my colleagues to do so as well. Furthermore, I am happy to say that for the first time since Roe v. Wade passed, some 30 years ago, a restriction on abortion is finally going to be put into place.

I would like to express my appreciation to the many grassroots organizations who worked so hard on this issue for years, to fellow members of Congress who diligently kept working on a resolution, and to President Bush for his support of this legislation and his promotion of life.

Mrs. CUBIN. Mr. Speaker, ''We hold these truths to be self-evident, that all Men are created equal, that they are endowed by their Creator with certain unalienable Rights, that among these are life . . .'' The Declaration of Independence tells us this.

We are created—life is created and the womb is where that miracle of life develops. Biology tells us this.

It is immoral and illegal, in America, to deliver a baby for the sole purpose of taking this child's life, under the guise of a medical procedure. The legislation at hand tells us this.

We fight wars in the name of protecting human rights. We serve with human rights organizations all over this world, standing up for those who can't defend themselves and for those who are robbed of what many of us take for granted. It should be no different here today, with this very issue.

So we are not here to talk about reproductive choices. We are here to talk about preserving human life and protecting the most defenseless among us from suffering a barbaric death.

Human life should never be taken in the name of mere convenience—to do so is among the grossest of human rights violations. That is why partial-birth abortions should be banned. It is long overdue.

I support the rule, I support the conference report and I look forward to the day it is signed into law to protect the lives of the most helpless victims of violence in our country—our children.

Mrs. TAUSCHER. Mr. Speaker, I am submitting this statement for the RECORD as a sign of my strong disapproval for what we are about to do. As a pro-choice, pro-child mother and Member of Congress, I believe that abortions should be safe, legal, and rare.

For more than a quarter-century, the Supreme Court has drawn a clear line on this issue.

As Americans and lawmakers, we are bound by the Constitution—and we must realize that an all-out ban on late-term abortions fails to meet the ''life and health of the mother'' standard the Supreme Court established in Roe and upheld in both Casey and Webster. The bill we have before us today does not take into consideration the health of the mother. The Supreme Court has found similar laws unconstitutional and will do the same with this one.

If the bill banned all late-term abortions, but allowed for the constitutionally required exception when it would be necessary to save the mother's life or avert serious health consequences, then I would support it.

The anti-women's health majority that continues to push this legislation is putting their own convoluted political agenda above the health concerns of women and above the law. The choice whether or not to have an abortion is a private and personal decision. It should be made between a woman, her family, her doctor, and her God. The federal government has no business interfering.

I strongly object to this bill and urge all of my colleagues to vote ''no'' and defeat it.

Mr. GRAVES. Mr. Speaker, I come to the floor today to speak in support of the Partial Birth Abortion Ban. I support this legislation because I support life. I believe that life begins at conception and I will continue fighting to protect our unborn children.

Partial birth abortions are wrong. Under Federal law ''live birth'' occurs when a baby is expelled from the mother. During a partial birth abortion the baby is pulled out feet first until the head is the only part in the mother's body, then the baby is brutally murdered. Most partial birth abortions occur in the second trimester, when the child will actually gasp for air when removed from their mother.

As a father of three I support all pro-life measures. I understand how precious and beautiful life is, and I am dedicated to protect life at all stages of development. All children should be welcomed in life and protected by law, and as long as I am in a position to fight, I will continue to fight for life.

Mr. TERRY. Mr. Speaker, I rise in strong support of the conference report for the Partial Birth Abortion Ban Act of 2003 (H.R. 760/S. 3).

I am proud to support the effective compromise that has been reached on behalf of thousands of women and children in our nation. Enacting this legislation has been a long, hard road for many dedicated Members of Congress and concerned citizens across America. I commend Chairman CHABOT for his tireless efforts to debate and pass this legislation, and President Bush for his commitment to sign it into law to protect human life.

The grisly facts of the partial-birth abortion procedure are well known. Suffice it to say that the life and value of a child should not hinge on 3 inches—the 3 inches before a child takes its first breath or before a child meets the abortionist's knife. Partial-birth abortion has visited untold horror upon thousands of women and children since its inception. It would be impossible to count the physical and emotional cost of this procedure for the women who have experienced it, much less the little children who are killed before they have a chance at life.

One such experience merits recounting because of its undeniable message for the protection of human life. In 1993, a nurse practitioner named Brenda Pratt Shafer was working in an abortion clinic. She was a pro-choice nurse who quit her job the day after she witnessed a partial-birth abortion. She told Members of Congress that ''what I saw is branded

forever on my mind . . . the woman wanted to see her baby [after the procedure], so they cleaned up the baby and put it in a blanket and handed the baby to her. She cried the whole time, and she kept saying, 'I'm so sorry, please forgive me!' I was crying too. I couldn't take it. The baby boy had the most perfect, angelic face I have ever seen.'' Her testimony stands as a powerful witness for every Member of Congress to vote to ban this procedure in our nation.

Another significant testimony comes from a doctor who was asked to care for a baby who had undergone a partial-birth abortion and was still breathing. Dr. Hanes Swingle wrote his eyewitness account for the Washington Times: ''I admitted this slightly premature infant [to the Neonatal Intensive Care Unit]. His head was collapsed in on itself . . . I did my exam (no other anomalies were noted) . . . then pronounced the baby dead about an hour later. Normally, when a child is about to die and the parents are not present, one of the staff holds the child. No one held this baby, a fact that I regret to this day. His mother's life was never at risk.'' Dr. Hanes concluded that partial-birth abortions must be banned ''simply because it is the right thing to do.''

Three years ago, the Supreme Court ruled 5 to 4 that my home state of Nebraska's ban on partial-birth abortion was unconstitutional. Justice Scalia wrote in his dissent that ''the notion that the Constitution prohibits the States from simply banning this visibly brutal means of eliminating our half-born posterity is quite simply absurd.'' Passage of the conference report today will clearly show that the Congress stands with Justice Scalia and the many other Americans who respect the sanctity of human life.

It amazes me that in the year 2003, the United States still permits this procedure—this act of death. The Alan Guttmacher Institute, the research arm of Planned Parenthood, reported this year that the number of partial-birth abortions performed in our nation tripled between the years 1996 and 2000. Estimates were that about 650 such abortions were performed in 1996, and now 2,200 are performed annually.

Former President Clinton shamed our nation and broke faith with women and children by twice vetoing the Partial-Birth Abortion Ban Act. I am proud that President Bush will reverse this record and uphold the promise of human life and dignity in America. I urge all of my colleagues to join him in this goal by voting for the conference report on the Partial-Birth Abortion Ban Act.

Mr. BLUMENAUER. Mr. Speaker, one of my fundamental principles is that government not interfere with the basic freedoms for individuals and their families. A basic freedom is the health of women, which necessarily includes reproductive health choices.

This legislation threatens that freedom by inappropriately intervening in the decision making of patients and their doctors. It goes beyond restricting the procedure. It ignores real needs of women and their families. This procedure has long been accepted and is at times the only practice available to protect a woman's life and her ability to safely have a healthy baby in the future.

Years ago when we first started debating this legislation, I was struck by real cases of real families that would be devastated by this amendment. Sadly, nothing has changed. Real families would still be devastated.

The broad language is likely to be used as a wedge in further eroding reproductive choices. No one can predict what this Supreme Court will do, let alone a future one. This language would fly in the face of a previous ruling against Nebraska's legislation and could be a vehicle for judicial reinterpretation which would further restrict reproductive freedom. This legislation is part of an insidious ongoing assault to erode reproductive freedoms and would perpetuate a trend, as shocking as it is unfortunate, of Congress imposing its theology on our citizens regardless of people's own strongly held beliefs and individual needs.

Earlier this Congress, because of the Republican leadership's theological clash with science, voted to make it illegal to use potentially life saving therapies to help with Alzheimer's- and Parkinson's-like degenerative and traumatic diseases leaving people crippled and dying. The vote was not just to deny scientific research here, but deny the benefits if developed anywhere else. They would make all our loved ones suffer in their zeal to make a point.

People who oppose abortion should not have one. Nothing would make me happier than for every woman to have the knowledge, well-being, medical care and luck so that there would never be a need for an abortion. Until such a day comes, it is wrong to prevent a woman's doctor from offering professional skills so that she and her family can determine the safest and most appropriate medical care.

Mr. SOUDER. Mr. Speaker, it has now been more than a decade since partial-birth abortion was first exposed for the horrific and violent act that it is. In that time, tens of thousands of healthy babies have been brutally killed as they exited the birth canal—just moments from their first breath.

Then, as now, the details of the partial-birth abortion procedure led to public outrage among the American people. The most recent poll on this issue found that 70 percent of the public favors the ban we will vote on today.

How can it be that it has taken more than 10 years to ban a procedure so many Americans find outright repugnant and immoral? Twice, Congress has passed similar legislation, only to be voted by the previous administration.

Today, I am grateful for the courageous stand of our current president, President George W. Bush, who, earlier this year in his State of the Union Address, called on Congress to pass the ban on partial-birth abortions. It is an honor to serve alongside this great president, and I look forward to his quick signature on this bill.

As we consider the partial-birth abortion ban conference report today, I'd like to address some of the misconceptions being circulated by those opposed to this bill.

Planned Parenthood, NARAL and others are claiming S. 3, The Partial Birth Abortion Ban Act, will ''halt safe, pre-viability abortions from occurring, which violates a woman's right to choose.'' This is simply false. S. 3 was crafted carefully to ensure its constitutionality. It addresses the concerns cited in the Supreme Court's Stenberg v. Carhart decision, which struck down Nebraska's ban on partial-birth abortion, that the definition of partial-birth abortion was too vague and could prohibit a common abortion procedure known as dilation and evacuation abortions. Today's bill corrects any potential for misinterpretation by specifically defining partial-birth abortion as:

> The person performing the abortion deliberately and intentionally vaginally delivers a living fetus until, in the case of a head-first presentation, the entire fetal head is outside the body of the mother, or in the case of breech presentation, any part of the fetal trunk past the navel is outside the body of the mother for the purpose of performing an overt act that the person knows will kill the partially delivered living fetus.

Secondly, some proponents of partial-birth abortion are advocating for a ''health'' of the mother exception in the bill. Such an exception is unnecessary, as the findings in the bill point out. The first section of S. 3 contains Congress's 14 factual findings that, based upon extensive medical evidence compiled during congressional hearings, a partial-birth abortion is never necessary to preserve the health of a woman. In fact, the highly regarded American Medical Association has said the procedure is ''not good medicine'' and is ''not medically indicated'' in any situation. A more narrow ''life of the mother'' exception is included in the bill, which would allow partial-birth abortions in cases where it is necessary to save the life of the mother.

As we vote on final passage of the Partial Birth Abortion Ban Act today, let us keep in mind the faces of the babies whose lives might be saved as a result of this bill. Many newspapers around the country have recently run stories about new 4-D ultrasound technology that is able to photograph very real-life pictures of the baby in the womb. Gracing the tops of the stories have been pictures of a perfectly formed baby in the womb with a smile on her face. The baby looks so different than it does just a short time later after its birth. Who could possibly look at these pictures and still support the killing of such beautiful babies by the violent death of scissors being stabbed in the baby's head?

The long-awaited passage of the Partial Birth Abortion Ban Act today is a historic event, the answer to much prayer, and the result of the work of thousands of heroes across this country. I thank my colleagues in the House, Congressman CHABOT, and Chairman SENSENBRENNER, for their dedication to passing this bill. I also thank our House Leadership for making this bill a priority for so many years. Finally, I urge my colleagues to support this conference report and end the reprehensible procedure known as partial-birth abortion.

Mr. MILLER of Florida. Mr. Speaker, I rise today in strong support of the Partial Birth Abortion Ban Act. I commend Mr. CHABOT and Sen. SANTORUM for introducing this important legislation, and the conferees for their leadership in protecting the life of the unborn.

As elected representatives, banning what is probably the most hideous medical procedures that could ever be performed may be one of the most important things we can do.

Mythical reports by a few journalists indicate that partial-birth abortions are generally performed in cases in which the baby has profound disorders or the mother faces a dire physical threat.

But hard facts indicated that this horrific practice is far more common than its proponents will admit. In truth, this piece-by-piece abortion is performed thousands of times annually, and the vast majority are performed on healthy babies of healthy mothers.

It must be outlawed.

Today, many will repeatedly give us the details of this so-called ''medical procedure.''

Instead, I would refer my colleagues to these medically accurate images. Doctors have described to us how the baby is pulled partly out of the mother's body, only inches from a completed birth and how an abortionist inserts scissors into the skull creating a hole where the baby's brain can be suctioned out. We have all seen pictures of the lifeless body pulled from the mother and tossed away like trash.

After seeing this, why debate? Partial Birth abortion is murder—the devil is in the details. This isn't about a woman's right to choose. This is about a child's right to live. And no compassionate person wants to see a woman suffer the personal tragedy of abortion. Women deserve better than partial-birth abortion.

I would say that the choice is simple, but there is no choice inherent in our duty to ensure that the sanctity of human life is never compromised. The unborn child has no voice and cannot protect itself. It is up to all of us to guarantee their voices are heard and their right to life is protected.

I urge my colleagues to help protect the lives of the most innocent, helpless and defenseless among us and support the Partial Birth Abortion Ban Act.

Mr. SMITH of Texas. Mr. Speaker, I support S. 3, the ''Partial Birth Abortion Ban Act of 2003.''

This bill prohibits a heinous and inhumane procedure. Partial birth abortions are a procedure in which a fully viable child is killed just inches from being fully delivered.

This procedure is inhumane and barbaric, and has no place in a civilized society.

Also, a partial birth abortion is not safe for women, and is never necessary to preserve the health of the mother. Unlike other abortion procedures, partial birth abortion involves killing a child that is no longer in the womb.

I strongly support the passage of this conference report.

Mr. CONYERS. Mr. Speaker, today we are once again considering a deceptive, extreme, and a blatantly unconstitutional attempt to sensationalize the abortion debate through heated rhetoric. If this bill passes today it will be the first time since the passage of Roe v. Wade that the Congress will steal the right of women and their families to decide matters of their own health care in consultation with their doctors. This is not just an issue of women's rights anymore—this is an issue of preserving the privacy of all Americans to keep the government out of their Doctor's office.

Just three years ago, the Supreme Court decided Stenberg v. Carhart, in which the Court held unconstitutional a Nebraska statute banning so-called ''partial-birth'' abortions.

The Court invalidated the Nebraska law for two independent reasons: (1) it did not contain an exception to protect the health of the woman, and (2) it placed an ''undue burden'' on a woman's right to choose by banning the most common type of 2nd-trimester abortion procedure.

S. 3 shows complete disregard for the Count's decision in Stenberg and suffers from the same two constitutional defects. It's as if the drafters went out of their way to thumb their nose at the Court.

First, there is no question that S. 3 lacks an exception to safeguard women's health, which the Supreme Court unequivocally said was a fatal flaw in any restriction on abortion.

Even the Ashcroft Department of Justice recognizes that, in order for any abortion regulation to be constitutional, it must contain an exception to protect the woman's life and health.

This legislation attempts to justify its lack of a health exception by summarily asserting in the bill's ''findings'' that the banned procedure is ''never medically necessary.'' Not only are these findings demonstrably false, they do nothing to rehabilitate the bill's unconstitutionality.

Much as the drafters may wish it to be otherwise, Congress cannot make a law constitutional simply by making ''findings'' that contradict the direct holding of a Court decision.

Simply stated, the bill's failure to include an exception to protect women's health will make it ''Dead On Arrival'' the minute it is challenged in court.

Second, the bill's definition of ''partial-birth abortion'' is so vague, overbroad, and internally contradictory that it would ban safe, previability abortions in violation of woman's right to choose.

But even if the bill covered only a single, late-term abortion procedure—which it does not—the bill would still endanger women's health by banning a procedure that the American College of Obstetricians and Gynecologists has recognized ''may be the best or most appropriate procedure in a particular circumstance to save the life or preserve the health of a woman.''

Congress should not take decisions about medical treatment out of the hands of doctors and families. But that is exactly what this bill sets out to do.

This legislation is a facially unconstitutional attempt to roll back a woman's right to choose. Fifteen pages of erroneous ''findings'' cannot change this sow's ear into a silk purse and rehabilitate this bill that puts politics ahead of women's health.

Mr. GOODLATTE. Mr. Speaker, I rise in strong support of the conference report on S. 3, the ban on the procedure known as partial birth abortion. I was appalled when I learned of the partial birth abortion procedure and have been working diligently to abolish it ever since. This heinous procedure involves partially delivering fully formed babies, and then killing them. It is one of the most horrible forms of abortion practiced. The difference between abortion and murder is literally a few inches. I believe that there is no justification for this brutal and heartless procedure, and only the most calloused among us can hear the description of this procedure and not react with disgust.

We must act now to ban this appalling procedure and protect the innocent unborn from violent deaths. A vote in favor of the conference report on S. 3 will stop the killing of innocent children and will send a message to the world that our Nation views life as a sacred and precious gift.

The overwhelming majority of the American people want to ban partial-birth abortions and no matter what your position is on abortion, this grisly procedure is indefensible in a civilized society. Thus, this vote on the conference report on S. 3 gives all of us an opportunity to join together in protecting innocent children from this horrific and gruesome procedure.

S. 3 is effective legislation to ban an unbelievably gruesome act. I urge each of my colleagues to support this legislation and to protect those who cannot protect themselves.

Mr. HOLT. Mr. Speaker, I rise in strong opposition to this bill, this so-called partial-birth abortion ban. It continues a troubling tendency that we have seen over the last few years for Congress to try to practice medicine.

Every day, patients make medical treatment decisions that are difficult, that are unpleasant, that are even dangerous and matters of life and death. Surely pregnant women deserve the same opportunities to decide with their doctors the best course of treatment. However, this bill denies women such opportunities and restricts their ability to access safe and appropriate health care. Furthermore, doctors who determine that the banned procedure is the most appropriate treatment will be subject to criminal sanctions simply for providing their patients with the best medical care.

All of us like to see fewer abortions performed in this country, and that is why I support education and prevention programs to help families avoid unwanted pregnancies. But the question of whether or not to have an abortion is one of the most difficult decisions any woman can face. Reproductive health care is a very personal, ethical, and medical matter that should be left to individuals, their doctors, and their families without interference from the government.

Proponents of this bill allege that it will protect life. In reality, it will jeopardize the health of women across this nation. Mr. Speaker, this legislation should be rejected.

Mr. CRANE. Mr. Speaker, I rise in strong support of the Partial-Birth Abortion Ban Act of 2003. By passing this legislation today the House will take its final step towards banning the truly horrifying practice whereby an innocent life is taken in a most gruesome way. The House has passed legislation in each of the last four Congresses banning partial-birth abortions. In the 104th and 105th Congresses, President Clinton vetoed the partial-birth abortion bans.

During this procedure, which is used in second and third trimester abortions, the infant's body id delivered, leaving only the head in the womb. At that point, the abortionist pierces the back of the infant's skull with a sharp instrument and then proceeds to vacuum out the infant's brain tissue, thus collapsing the skull, allowing the now-dead infant's body to be extracted.

Some opponents of this legislation have argued that they fear for the health of the mother in an emergency. I can assure them that this procedure is never used in a real emergency, because it takes three days to prepare and complete this procedure.

This legislation makes it a federal crime for a physician, in or affecting interstate commerce, to perform a so-called partial birth abortion, unless it is necessary to save the life of the mother. Under H.R. 760, anyone who knowingly performs a partial-birth abortion would be subject to fines and up to two years in prison. The bill provides that a defendant could seek a hearing before the state medical board on whether his or her conduct was necessary to save the life of the mother, and further provides that those findings may be admissible at trial.

Mr. Speaker, I urge my colleagues to vote in favor of this very important legislation. Thanks to President Bush, this Congress finally has an opportunity to ban the gruesome

procedure without the threat of a presidential veto. By passing S. 3 today, we will finally be able to protect innocent babies who, through no fault of their own, have their lives taken.

Mr. WELDON of Florida. Mr. Speaker, I rise today to voice my strong support for the Partial Birth Abortion Ban Conference Report. For 9 years, I have been coming to this floor and speaking out against this barbaric procedure, so it is with great joy that I rise today in support of this bill knowing that we finally have a President who stands ready to sign this bill into law.

I first learned of this procedure 10 years ago, in 1993, when I was still practicing medicine. After a long day of seeing patients in my office, I opened the American Medical News and saw this procedure described. I was shocked, not only by its flagrant violation of the sanctity of human life, but its brutality. How could such an awful procedure be legal in this country? Now 10 years later, after years of House and Senate votes and vetoes by former President Clinton, we will finally see a ban on partial birth abortion signed into law.

The procedure is simply abhorrent. The mother is subjected to 3 days of slow inducement. Then the child's head is left in the mother's womb until the abortionist kills the child by puncturing the back of the child's neck. If the baby's head were 3 inches further out of the birth canal, this practice would be called murder.

Critics of a partial-birth abortion ban have asserted that the ban could endanger the life and/or health of the mother, but such is not the case. Even the American Medical Association has said that this procedure is not good medicine and is not medically indicated in any situation.

This procedure is clearly barbaric. It is unneccesary under any circumstance, and the legality of the procedure is an affront to the founding principles of this Nation. I remind my colleagues that we have come this far, we cannot stop short of doing what's right. Let's send this bill to President Bush's desk with the message that these lives are worth saving.

Ms. HARMAN. Mr. Speaker, I rise today in strong opposition to the conference report to ban so-called partial-birth abortions.

Regrettably, Congress poised to pass, and the President is prepared to sign, a bill that can only be described as unconstitutional.

I urge my colleagues not to be deceived by this legislation.

Partial birth is not a medical, factual, or legal term. Let's be frank—it is a political term.

This is not a debate about so-called partial-birth abortion or late-term abortion. This is a debate about efforts to roll back a woman's constitutional right to choose whether or not to have an abortion.

The so-called partial birth abortion ban contained in this bill is intended to erode the protections of Roe v. Wade and I believe will be found unconstitutional by the courts.

Even the sense of the Senate language included in the Senate-passed bill reaffirming Roe v. Wade has been stripped out of this bill.

Supporters of this bill argue that language defining the partial-birth abortion procedure has been tightened and that findings included stating that the procedure is never necessary to protect a woman's health.

This is simply smoke and mirrors. The bill is unconstitutional for the same reasons the Supreme Court struck down similar laws. Women are entitled to the right to the safest abortion procedure available. To ban one particular procedure is to deny women—in consultation with their doctor—that right.

Just as its authors intended, this bill would apply well before viability, banning a safe method of abortion that is often used in the second trimester.

In addition, it fails to include language providing an exception to protect the health of the mother.

I am distressed that more than 30 years after the Supreme Court's historic Roe decision, we are considering legislative measures that could revert us back to the time of dangerous back alley abortions.

Before voting, I hope that my colleagues will remember the struggles women faced before Roe.

Let us not forget the women who were injured or who died from unsafe procedures. This bill could well return us to that era again.

I urge my colleagues to uphold a woman's constitutional right to choose by voting against final passage of this conference report.

The SPEAKER pro tempore (Mr. SHIMKUS). All time having expired, without objection, the previous question is ordered.

There was no objection.

The SPEAKER pro tempore. The question is on the conference report.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. SENSENBRENNER. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 281, nays 142, not voting 12, as follows:

[Roll No. 530]

YEAS—281

Aderholt	Camp	Duncan
Akin	Cannon	Dunn
Alexander	Cantor	Ehlers
Bachus	Capito	Emerson
Baker	Carson (OK)	English
Ballenger	Carter	Etheridge
Barrett (SC)	Castle	Everett
Bartlett (MD)	Chabot	Feeney
Barton (TX)	Chocola	Ferguson
Bass	Clyburn	Flake
Beauprez	Coble	Fletcher
Bereuter	Cole	Foley
Berry	Collins	Forbes
Biggert	Cooper	Ford
Bilirakis	Costello	Fossella
Bishop (GA)	Cox	Franks (AZ)
Bishop (UT)	Cramer	Frelinghuysen
Blackburn	Crane	Gallegly
Blunt	Crenshaw	Garrett (NJ)
Boehlert	Crowley	Gerlach
Boehner	Cubin	Gibbons
Bonilla	Culberson	Gilchrest
Bonner	Cunningham	Gillmor
Bono	Davis (AL)	Gingrey
Boozman	Davis (FL)	Goode
Boyd	Davis (TN)	Goodlatte
Bradley (NH)	Davis, Jo Ann	Gordon
Brown (SC)	Davis, Tom	Goss
Brown-Waite, Ginny	Deal (GA)	Granger
Burgess	DeLay	Graves
Burns	DeMint	Green (WI)
Burr	Diaz-Balart, L.	Gutknecht
Burton (IN)	Diaz-Balart, M.	Hall
Buyer	Dingell	Harris
Calvert	Doolittle	Hart
	Doyle	Hastert
Hastings (WA)	McIntyre	Ross
Hayes	McKeon	Royce
Hayworth	McNulty	Ruppersberger
Hefley	Mica	Ryan (OH)
Hensarling	Michaud	Ryan (WI)
Herger	Miller (FL)	Ryun (KS)
Hill	Miller (MI)	Sandlin
Hinojosa	Miller, Gary	Saxton
Hobson	Mollohan	Schrock
Hoekstra	Moran (KS)	Sensenbrenner
Holden	Murphy	Sessions
Hostettler	Murtha	Shadegg
Houghton	Musgrave	Shaw
Hulshof	Myrick	Shays
Hunter	Neal (MA)	Sherwood
Isakson	Nethercutt	Shimkus
Istook	Neugebauer	Shuster
Janklow	Ney	Simpson
Jefferson	Northup	Skelton
Jenkins	Norwood	Smith (MI)
John	Nunes	Smith (NJ)
Johnson (IL)	Nussle	Smith (TX)
Johnson, Sam	Oberstar	Souder
Jones (NC)	Obey	Spratt
Kanjorski	Ortiz	Stearns
Kaptur	Osborne	Stenholm
Keller	Ose	Strickland
Kelly	Otter	Stupak
Kennedy (MN)	Oxley	Sullivan
Kennedy (RI)	Pascrell	Sweeney
Kildee	Paul	Tancredo
King (IA)	Pearce	Tanner
King (NY)	Pence	Tauzin
Kingston	Peterson (MN)	Taylor (MS)
Kleczka	Peterson (PA)	Taylor (NC)
Kline	Petri	Terry
Knollenberg	Pitts	Thomas
LaHood	Platts	Thornberry
Lampson	Pombo	Tiahrt
Langevin	Pomeroy	Tiberi
Latham	Porter	Toomey
LaTourette	Portman	Turner (OH)
Leach	Pryce (OH)	Turner (TX)
Lewis (CA)	Putnam	Upton
Lewis (KY)	Quinn	Visclosky
Linder	Radanovich	Vitter
Lipinski	Rahall	Walden (OR)
LoBiondo	Ramstad	Wamp
Lucas (KY)	Regula	Weldon (FL)
Lucas (OK)	Rehberg	Weldon (PA)
Lynch	Renzi	Weller
Manzullo	Reyes	Whitfield
Marshall	Reynolds	Wicker
Matheson	Rogers (AL)	Wilson (NM)
McCotter	Rogers (KY)	Wilson (SC)
McCrery	Rogers (MI)	Wolf
McHugh	Rohrabacher	Young (AK)
McInnis	Ros-Lehtinen	Young (FL)

NAYS—142

Abercrombie	Engel	Majette
Ackerman	Farr	Maloney
Allen	Fattah	Markey
Andrews	Filner	Matsui
Baca	Frank (MA)	McCarthy (MO)
Baird	Frost	McCarthy (NY)
Baldwin	Gonzalez	McCollum
Ballance	Green (TX)	McDermott
Becerra	Greenwood	McGovern
Bell	Grijalva	Meehan
Berkley	Gutierrez	Meek (FL)
Berman	Harman	Meeks (NY)
Bishop (NY)	Hastings (FL)	Menendez
Blumenauer	Hinchey	Millender-McDonald
Boucher	Hoeffel	Miller (NC)
Brady (PA)	Holt	Miller, George
Brown (OH)	Honda	Moore
Brown, Corrine	Hooley (OR)	Moran (VA)
Capps	Hoyer	Nadler
Capuano	Inslee	Napolitano
Cardin	Israel	Olver
Cardoza	Jackson (IL)	Owens
Carson (IN)	Jackson-Lee (TX)	Pallone
Case	Johnson (CT)	Pastor
Clay	Johnson, E. B.	Payne
Conyers	Jones (OH)	Pelosi
Cummings	Kilpatrick	Price (NC)
Davis (CA)	Kind	Rangel
Davis (IL)	Kolbe	Rodriguez
DeFazio	Kucinich	Rothman
DeGette	Lantos	Roybal-Allard
Delahunt	Larsen (WA)	Rush
DeLauro	Larson (CT)	Sanchez, Linda T.
Deutsch	Lee	Sanchez, Loretta
Dicks	Levin	Sanders
Doggett	Lewis (GA)	Schakowsky
Dooley (CA)	Lofgren	Schiff
Edwards	Lowey	
Emanuel		

Scott (GA)	Tauscher	Watson
Scott (VA)	Thompson (CA)	Watt
Serrano	Thompson (MS)	Waxman
Sherman	Tierney	Weiner
Simmons	Towns	Wexler
Slaughter	Udall (CO)	Woolsey
Smith (WA)	Udall (NM)	Wu
Snyder	Van Hollen	Wynn
Solis	Velazquez	
Stark	Waters	

NOT VOTING—12

Boswell	Evans	Kirk
Brady (TX)	Gephardt	Pickering
Dreier	Hyde	Sabo
Eshoo	Issa	Walsh

□ 1254

Mr. BALLANCE and Mr. GONZALEZ changed their vote from ''yea'' to ''nay.''

So the conference report was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

Stated for:

Mr. PICKERING. Mr. Speaker, on rollcall No. 530 I was unavoidably detained. Had I been present, I would have voted "yes."

APPOINTMENT OF CONFEREES ON H.R. 2660, DEPARTMENTS OF LABOR, HEALTH AND HUMAN SERVICES, AND EDUCATION, AND RELATED AGENCIES APPROPRIATIONS ACT, 2004

Mr. REGULA. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 2660) making appropriations for the Departments of Labor, Health and Human Services, and Education, and related agencies for the fiscal year ending September 30, 2004, and for other purposes, with a Senate amendment thereto, disagree to the Senate amendment, and agree to the conference asked by the Senate.

The SPEAKER pro tempore (Mr. SHIMKUS). Is there objection to the request of the gentleman from Ohio?

There was no objection.

MOTION TO INSTRUCT OFFERED BY MR. OBEY

Mr. OBEY. Mr. Speaker, I offer a motion to instruct conferees.

The Clerk read as follows:

Mr. OBEY moves that the managers on the part of the House at the conference on the disagreeing votes of the two Houses on the bill, H.R. 2660, be instructed to insist on section 106 of the Senate amendment regarding overtime compensation under the Fair Labor Standards Act.

The SPEAKER pro tempore. Pursuant to clause 7 of rule XXII, the gentleman from Wisconsin (Mr. OBEY) and the gentleman from Ohio (Mr. REGULA) each will control 30 minutes.

The Chair recognizes the gentleman from Wisconsin (Mr. OBEY).

Mr. OBEY. Mr. Speaker, I yield myself 4 minutes.

Mr. Speaker, the House bill does not contain and the Senate Labor HHS bill does contain an important provision which affects millions of American workers. That provision would preclude the Department of Labor from issuing any regulation that takes away overtime protection from workers who currently qualify for that protection. It would protect rights that workers in this country have had since the enactment of the Fair Labor Standards Act of 1938.

Under the Senate provision, the Department of Labor could proceed with its ongoing rulemaking process and modify the overtime regulations. Example: The department could proceed with making a long-overdue inflation adjustment that guarantees overtime protection for certain low-income workers earning $22,100 a year.

□ 1300

The Department of Labor says that this will result in an additional 1.3 million workers receiving overtime. I do not know if that estimate is right, but we agree with this provision. We, in fact, think that it would add far fewer number of workers than does the Department of Labor. The only shortcoming we see with it is that it does not go far enough and does not even keep pace with inflation, full adjustment to match inflation would require the department to increase the salary threshold in the rule to at least $27,560.

The Senate provision also would not stop the department from clarifying the overtime regulations to update them for the 21st century. For example, by eliminating an achronistic terms such as ''straw boss'' or ''gang leader'' or eliminating job classifications which no longer exist such as ''teamster''. Do not tell that to the Teamsters Union, however.

The Senate provision would provide the same protections to newly hired workers as to current workers. It does not grandfather in current workers but ensures the same overtime protections to all workers in a job classification.

Mr. Speaker, there is general agreement that workers are going to lose overtime protection under the administration's revised regulation. The question is how many will lose that protection? By some estimates as many as 8 million workers who are currently protected will lose that protection. Even if the Department of Labor concedes that a minimum of 644,000 workers currently covered would lose that protection and could be forced to work overtime without being compensated. Whether the number is 644,000 or 8 million, Mr. Speaker, the Bush administration should not put American workers in the position of being forced to work more than 40 hours a week without being paid overtime.

So to reiterate, the Senate provision would simply stop the Department of Labor from issuing a regulation taking away overtime protections from workers who currently have them. The Senate provision is absolutely essential to protect workers' overtime rights. It is not enough that more than 3 million workers have lost their jobs since this administration has taken office. Now the administration apparently wants to cut the pay of a number of workers who still have jobs by cutting their overtime protections. That is clearly not right. It is not fair. I do not think that the public would support it, and I would urge a yes vote on the motion to instruct.

Mr. Speaker, I reserve the balance of my time.

Mr. REGULA. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I think the operative word here as stated by the gentleman from Wisconsin (Mr. OBEY) is they ''apparently.'' Well, they have not finished this procedure. The Department of Labor has received 80,000 comments on the proposed change. What they are trying to do is to bring the rules on overtime into the new century. It has been over 50 years since the present rules were promulgated and the department thinks it is important to take a look in relationship to today's world, today's communications, today's structures of our labor programs that would be realistic.

I think one of the things that I want to put to rest is that this will affect certain groups. I have here a letter from the national president of the Fraternal Order of Police writing on behalf of the members of the Fraternal Order of Police to advise of their opposition to the motion to instruct. What they are saying is let us look, let us take these 80,000 comments and see what makes sense and is fair to everyone concerned. The Secretary of Labor is approaching it from that point of view. What is fair.

Likewise, it has been said that the nurses would come under this because they have do a lot of overtime and, again, the Nursing Executive Watch, a publication that goes to nurses says, ''Contrary to popular belief, changes to overtime regulations won't affect nurses.''

So, again, it is an effort by the Department of Labor to look at regulations that have been in place more than 50 years and say what is fair, what makes sense in 2003 and thereafter.

Now, there is another risk involved in all of this and that is the fact that the administration's leadership, the executive branch, has said they would recommend a veto.

Well, what would be the result of a veto? We would be living on a continuing resolution without increases voted by this House in support of the Labor, Health and Human Services, Education Bill, increases in the amount of money for many good programs. And let me tell you a few of these:

Special education gets an extra increase of $1 billion in the Labor H bill. Title I, which is designed to help children from low income homes gets an increase of $650 million. Reading programs, and we hear more and more evidence that reading is such a vital part of the education of any individual. They use scientific evidence to help

children, and they are funded at over $1 billion. Impact aid, for those of you who have military bases, is increased by $50 million for a total of $1.2 billion. That is just education.

As I said many times, this is the people's bill. Every one of the 280 million Americans in one way or another, their lives are touched by the things we do in this bill. Health programs, many of you have community health centers, a very valuable asset in any community, and we recognize this, and based on the President's recommendation have increased the funding for these in the bill. Centers for Disease Control. The CDC has been much in the news in recent months because of a wide variety of diseases and, again, we increase the funding for the Centers for Disease Control. Substance abuse. We hear all the time about the problem of drugs. And again, we have increased the money for this program and, of course, the National Institutes of Health. This is the premier medical research institution in the world. Not only does it benefit the people in the United States, it has a worldwide impact on the health of people. We have substantial increases for the National Institutes of Health.

I could read off a whole list of agencies that get increases in this bill, Even Start, Reading First, Early Reading First, Literacy, Migrant Education, programs for neglected and delinquent youth, Comprehensive School Reform, Mathematics and science partnerships, after-school centers, education for homeless children, education programs for rural school districts, teacher enhancement programs, charter school grants, credit enhancement for charter schools, the list goes on and on, PELL grants, vocational education state grants, Historically Black Colleges and Universities, TRIO, GEAR UP, Teacher Quality Enhancement Grants, Howard University, education research, and so on.

All of these programs get increases under the bill under discussion, and we are going to put that at risk if we reject the efforts of Secretary Chao and that is what this amendment does. It says, do not pay any attention to the 80,000 comments that have been sent in to your agency to evaluate how it is presently working in comparison to what it would have been 50 years ago. We are saying, no, no, no, stop. And then you run the risk that if the President's advisors prevail and there is a veto, we could be on a continuing resolution even for the balance of this fiscal year. If that were to happen, all of these programs would be funded at levels below what we have put in the bill.

And I think as our Members contemplate making a decision on how to vote on this motion to instruct, that they ought to keep in mind that what they are doing is gambling the future of our children or gambling these increases in some great programs against what we think is a very orderly process, and that is to let the Secretary go forward, evaluate the 80,000 comments and make a decision on what the rules should be in terms of overtime pay for the next years.

So I say to all of my colleagues, weigh your vote carefully because you are not only voting on a proposal that was brought up in the Senate by way of an amendment, you are voting on the future of a lot of very good programs that are funded under the Labor bill.

Mr. Speaker, I reserve the balance of my time.

Mr. OBEY. Mr. Speaker, I yield myself 1 minute.

Mr. Speaker, I cannot believe one thing that I just heard. The distinguished gentleman from Ohio (Mr. REGULA) I believe said that if this were to be included in the conference report, the White House would veto the bill. I really want to see whether this President has the unmitigated gall to veto this bill because of protections that we place in the bill so that workers do not have to work more than 40 hours a week and still not be paid overtime. I want to see whether the President who has presided over the loss of 3 million jobs in this economy has the unmitigated gaul to then say to those workers, ''Sorry, folks, you've got to work more than 40 hours without collecting overtime.

Now, I believe, given his track record, he would like to do that, but very frankly, I doubt that he has got the moxie to do that in the teeth of the miserable economic performance that he has provided this country on the economic front. It is outrageous to even think that the President would veto this bill over this provision.

Mr. Speaker, I reserve the balance of my time.

Mr. REGULA. Mr. Speaker, I yield myself 1 minute.

Just let me say that the Secretary's proposal would allow, this is a proposal that she has the comments on, would allow an opportunity for overtime for over one million workers that are now not covered. And these are the workers that are at the low end of the wage scale. So you have to keep in mind what the administration is proposing to do here, although they have to evaluate the 80,000 comments.

Mr. Speaker, I reserve the balance of my time.

Mr. OBEY. Mr. Speaker, I assume that came out of the gentleman's time?

The SPEAKER pro tempore (Mr. SHIMKUS). Is the gentleman from Ohio (Mr. REGULA) yielding to the gentleman from Wisconsin (Mr. OBEY)?

Mr. OBEY. Mr. Speaker, I was not asking that.

The SPEAKER pro tempore. The Chair is trying to decide who is controlling time. Has the gentleman from Ohio (Mr. REGULA) yielded back?

Mr. REGULA. Mr. Speaker, I have time I want to yield to some of my colleagues.

The SPEAKER pro tempore. The gentleman from Ohio (Mr. REGULA) reserves his time.

PARLIAMENTARY INQUIRY

Mr. OBEY. Mr. Speaker, I have parliamentary inquiry. I was just trying to determine whether the gentleman's last remarks came out of his time.

The SPEAKER pro tempore. The gentleman from Ohio (Mr. REGULA) had yielded himself 1 minute.

Mr. OBEY. Mr. Speaker, I yield myself 30 seconds.

I want to make clear this instruction motion does not prevent the Labor Department substituting the change in regulations that allow additional workers to claim overtime, so that is included in our motion. The only thing we stop is, we stop the President from unilaterally taking away overtime from workers who get it now.

Mr. Speaker, I reserve the balance of my time.

Mr. REGULA. Mr. Speaker, I yield 6 minutes to the gentleman from Georgia (Mr. NORWOOD).

Mr. NORWOOD. Mr. Speaker, I rise in strong opposition to the motion to instruct conferees which would prevent the Department of Labor from implementing regulations to update complex and outdated, the key word is outdated, wage and hour regulations and provide additional overtime protections to millions of this country's workers.

Numerous hearings have been held in my Subcommittee on Workforce Protections of the Committee on Education and the Workforce in the last several Congresses, and they have demonstrated the need for the current regulations to be updated after 1938 to meet the needs of today's American workforce.

The Department's proposed regulations, Mr. Speaker, will guarantee overtime pay to 1.3 million workers who do not presently get overtime now. Now, remember, 1.3 workers are going to get an increase in the amount of money in their pocket. It has been of interest to me as I watched on national television some of the leaders of the opposition of this say, oh, just a few people are going to get overtime pay. Oh, just a handful. Well, it is not a handful if you are part of that 1.3 million.

□ 1315

This also will ensure that 10.7 million workers who are eligible for overtime continue to get it. A vote to accept the Harkin amendment is a vote against giving overtime to those 1.3 Americans and a vote to truly threaten overtime pay for the 10.7 million working families.

I think it is imperative we take a minute and try to get the record straight as to what the proposed regulations do not do, because Big Labor and their friends in the Democratic Party have been playing fast and loose with the facts. These regulations do not take overtime away from 8 million people. In fact, those 8 million people do not make overtime now. They are made sure that they do not make overtime, but they could make more

money, which is what they are interested in, because they work on their production and their production could yield a lot more money if they could work the hours they choose to work.

These are numbers which have been spread around not by economists but by lobbyists in a Democratic labor think tank. They simply do not add up. Check these numbers. They are plain and simple an untruth, the numbers that have been thrown around.

These regulations would not strip overtime pay from policemen, firefighters, nurses, and other first responders. Listen, these regulations would not strip overtime pay from policemen, firefighters, nurses, and other first responders. Whoever says that is not telling the truth. Workers in these jobs who get overtime pay today will continue to do so, and more of them will get overtime pay under these new rules.

These regulations do not affect a single union member who gets overtime under his or her collective bargaining agreement. These regulations do not affect a single union member. For workers whose rights to overtime pay is in their labor contract, these regulations simply have no effect.

Finally, these regulations are not a take-back by employers. This is not an effort to trim the payroll by denying workers overtime. In fact, the Department of Labor estimates that under the proposed regulations, businesses will pay almost $900 million more in overtime in next year alone. What employers support a rule that would cause them to pay more in overtime pay? Because, my colleagues, they know that the current system just does not work; and it does not fit the 21st century. It is outdated, it is complex, and it is broken. Employers cannot know who they have to pay overtime, and employees cannot know if they are entitled to overtime, and the Department of Labor cannot effectively and efficiently enforce the law. My colleagues want to keep that?

Who does support a Harkin amendment? Trial lawyers, for one, who have made a killing on gotcha class action litigation, filing lawsuits to try to get overtime pay for corporate executives and rocket scientists; and Big Labor supports the Harkin amendment, not because it has any effect on union members who are already protected under their contracts, but because labor has turned this into a scare tactic and an organizing tool to raise money and to collect more union dues. It is just that simple.

The Harkin amendment would only add to existing confusion, making matters worse for both employees and employers. It would result in fewer hardworking Americans getting overtime. It would result in fewer hardworking Americans getting overtime, and it is nothing more than a big tool of labor and the trial lawyers. That is why the President has vowed to veto the bill if the Harkin amendment, which would result in fewer workers receiving overtime, is included in this bill.

I urge my colleagues to reject this distortion, this misinformation, these outright untruths that have been spread and, I might add, spread very effectively about these regulations and all of us stand up and vote against this motion to instruct.

Mr. OBEY. Mr. Speaker, I yield myself 1½ minutes.

Mr. Speaker, the gentleman from Georgia always gives a fine speech on the floor. The problem is he just gave a fine speech against a proposition that is not being offered.

The fact is that the motion that we are offering today does, I repeat does, D-O-E-S, does allow the Labor Department regulations that add people to overtime protection. We do accept those updated definitions. What we do not accept is the President unilaterally, without congressional action, knocking off from the overtime protection rolls workers who now have that protection.

The gentleman also says not a single union member will be affected by the Labor Department's suggested rulings. Let me point out two things. First of all, we ought to be worried about all workers, not just union workers; and, secondly, the fact is that right now unions do not have to negotiate this overtime provision in their contracts. Right now they have the protection of the law. If this is removed, then that is just another way that you are going to unbalance the bargaining table against workers by forcing them to have to go back and negotiate something which they have had by right since 1938. I dare the administration to go into any union hall in this country or any working plant in this country and claim to be a friend of workers if they veto this bill over our efforts to stop that kind of unilateral action.

Mr. Speaker, I yield 2 minutes to the gentleman from Massachusetts (Mr. LYNCH).

(Mr. LYNCH asked and was given permission to revise and extend his remarks.)

Mr. LYNCH. Mr. Speaker, as a co-chairperson along with the gentlewoman from California (Ms. LINDA T. SÁNCHEZ) and the gentleman from Maine (Mr. MICHAUD) of the newly formed Congressional Labor and Working Families Caucus, I urge my colleagues to vote in favor of this motion to instruct.

Mr. Speaker, the action that we are recommending today is necessary because the Department of Labor is indeed intending to implement new regulations that will place an undue burden on millions of American workers and their families. These proposed regulations would indeed block as many as 8 million American workers from receiving overtime pay, and we are not talking about CEOs of Fortune 500 companies here.

The exact language of these regulations would hurt the very men and women that are on the front lines of our war against terrorism, our first responders. There is no language in these regulations that would exempt our nurses, our firefighters, or our police officers that dedicate their working lives to protecting the safety of all of us.

Mr. Speaker, under the economic policies of this administration, more than 3.3 million jobs have been lost in this country since 2001; and as a result, unemployment is now at a 10-year high. Millions of additional workers are concerned about their pensions, health benefits, and ability to meet their basic needs such as rent and groceries.

This Congress today must act to protect American workers. If this new regulation is implemented, then millions of American workers will be put in a position where they are forced to work harder for less pay.

Mr. Speaker, I want to thank the gentleman from Wisconsin (Mr. OBEY) for his hard work on this; and I want to point out, the gentleman from Georgia just said that there is no effect on firefighters, on nurses or on police officers by this regulation. That is what this motion to instruct requires. If he truly believes that, then he should support this motion to instruct.

Mr. REGULA. Mr. Speaker, I yield myself such time as I may consume.

I want to read the operative section of the so-called Harkin amendment: ''None of the funds provided under this Act shall be used to promulgate or implement any,'' and I emphasize ''any regulation that exempts from the requirements of section 7 of the Fair Labor Standards Act of 1938 any employee who is not otherwise exempted pursuant to regulations under section 13 of such Act that were in effect as of September 3rd, 2003.''

Now, with 80,000 comments to evaluate and if this were adopted, this amendment, the result would be that the Secretary would be very reluctant to do anything because it says none of the funds shall be used to promulgate or implement any regulation that exempts and so on. It would simply put a chill on trying to bring overtime regulations into this century.

The result would be that over 1 million people who are presently not getting the benefit of overtime pay would be denied this prospect for the future because the Secretary would look at this language and say, look, under those circumstances, I cannot even get involved because this language is so restrictive, and they are in effect denying the very people that the other side would say they want to help. They are denying them an opportunity to participate in overtime regulations and in effect get the time and a half that they would deserve.

Mr. Speaker, I reserve the balance of my time.

Mr. OBEY. Mr. Speaker, I yield myself 30 seconds.

I will simply repeat again, the effect of this motion does not deny the Labor

Department the right to add a single worker to overtime protections that they provide under their adjustments. All it does is to prevent, to prevent workers who now have that overtime protection from losing it. It is just that simple.

I am the author of the motion. I think I know what it says. I think I know what it means.

Mr. Speaker, I yield 1½ minutes to the gentleman from Maine (Mr. MICHAUD).

Mr. MICHAUD. Mr. Speaker, as co-chair of the newly formed Congressional Labor and Working Families Caucus, I urge my colleagues to vote in favor of the motion to instruct conferees.

It is time to stop the all-out assault on workers in Maine and throughout our Nation who rely on overtime to make ends meet. It is time to abandon the proposal to block overtime pay for 8 million workers nationwide, and it is time that this Congress and this President listen to the hardworking American people.

I rise today on behalf of the families across our Nation and in my State of Maine whose overtime pay accounts for 25 percent of their entire income. What message could this be sending them? Mr. Speaker, after working 30 years in a paper mill, I know what message it sends to the working people of this country. It tells them that their work is of less and less value and that this Congress does not care that they are falling further and further behind.

I urge my colleagues to listen to the people who work hard, who built this country, made this country what it is today.

Mr. REGULA. Mr. Speaker, how much time is left for each side?

The SPEAKER pro tempore (Mr. SHIMKUS). The gentleman from Ohio (Mr. REGULA) has 14½ minutes remaining. The gentleman from Wisconsin (Mr. OBEY) has 19½ minutes remaining.

Mr. REGULA. Mr. Speaker, I reserve the balance of my time.

Mr. OBEY. Mr. Speaker, I yield 1½ minutes to the gentleman from Iowa (Mr. BOSWELL).

(Mr. BOSWELL asked and was given permission to revise and extend his remarks.)

Mr. BOSWELL. Mr. Speaker, I rise in support of the motion to instruct conferees on the Labor-HHS-Ed appropriations bill. This motion is urging support for Senator HARKIN's provision, which blocks the administration's effort to gut overtime pay as we know it should be adopted.

These proposed changes will imperil an estimated 8 million workers and make them ineligible for overtime pay. Most Americans have grown accustomed to working a little extra to make a little extra in their paychecks. This helps employers and employees. These workers do not consider overtime pay as frivolous or spare change. It is not a luxury in today's shaky economy.

Many workers who earn overtime receive 25 percent of their annual income from the extra hours on the job. We should not take away a very important component to our workers. This is unfair. It is unwise. We should not penalize workers who are playing by the rules and need overtime pay.

The other body successfully adopted an amendment to prevent the administration from implementing this harmful regulation, and I remain hopeful, I remain hopeful this House will see the merits of overtime pay and agree with the need to block the regulation.

I urge my colleagues to join me, to join us in support of this motion to instruct and keep fairness for all American workers.

Mr. REGULA. Mr. Speaker, I continue to reserve my time.

Mr. OBEY. Mr. Speaker, I yield 1½ minutes to the gentlewoman from Connecticut (Ms. DELAURO).

□ 1330

Ms. DELAURO. Mr. Speaker, for 70 years, overtime pay has meant time and a half in this country. Without overtime, countless Americans, including police officers, firefighters, nurses, and EMTs would be forced to take a second job to make up for the lost earnings, meaning more time away from their families and higher child care costs.

The administration's rule is designed to give flexibility to companies, not to families, but flexibility to withhold rightfully earned pay from their employees by weakening the 1938 Fair Standards Labor Act, protections that safeguard our workers' rights today and make mandatory overtime a less attractive option for the employer.

This comes at a time when we have more than 9 million Americans out of work, when income is declining, poverty is increasing, and nearly 44 million Americans are without health insurance. Mr. Speaker, this is a matter of values, of our country's long-standing contract with working people that says hard work deserves to be rewarded, especially when that work is above and beyond the call of duty, after normal working hours. That contract must be honored.

I urge our conferees to include the Harkin amendment in the conference report.

Mr. OBEY. Mr. Speaker, I yield 1½ minutes to the gentleman from Texas (Mr. BELL).

Mr. BELL. Mr. Speaker, I have listened closely to the arguments offered on the other side in opposition to this motion to instruct, but I think something that should be pointed out is that just standing up here and saying something does not make it so, or saying this proposal will not affect certain people does not make it the truth.

Let us be very clear about what we are talking about here today. Under the Fair Labor Standards Act, employers are required, they are required to pay employees a premium for overtime work. They have been required to do so since the 1930s. An exception does exist for three categories: for executive, administrative, and professional positions.

Under this Department of Labor proposal, every proposed change to the duties test, which determines whether someone falls under one of those exception categories, every proposed change to the duties test would make it easier to avoid paying overtime, would make it easier for employers to get around their obligation to pay a premium for overtime work.

And my colleagues can say that certain jobs will not be affected, but look at the list. Look at the list of those who would be affected: mid-level office workers, lower-level supervisors, licensed practical nurses, newspaper reporters, policemen, firefighters, and the list goes on and on.

This is an unfair proposal. It is a lousy proposal. Vote for the motion to instruct.

Mr. OBEY. Mr. Speaker, I yield 1 minute to the gentlewoman from California (Ms. LINDA T. SÁNCHEZ).

Ms. LINDA T. SÁNCHEZ of California. Mr. Speaker, as co-chair of the newly formed Congressional Labor and Working Families Caucus, which now has over 75 Members of this House, I urge my colleagues to vote in favor of this motion to protect overtime pay.

For many hardworking men and women, including cops and firefighters, nurses and first responders, overtime pay is not spare change. It helps families pay the mortgage, feed the kids, pay for college, and save for retirement. In this especially brutal economy, which has been so hard on America's working families, I urge my colleagues to not let the Bush administration shortchange our working families.

Mr. OBEY. Mr. Speaker, how much time do we have?

The SPEAKER pro tempore (Mr. SHIMKUS). Each side has 14½ minutes remaining.

Mr. REGULA. Mr. Speaker, I have one more speaker, and I understand the gentleman has the right to close, so I will reserve the balance of my time.

Mr. OBEY. Mr. Speaker, I yield 1 minute to the gentleman from Ohio (Mr. KUCINICH).

Mr. KUCINICH. Mr. Speaker, this administration now seems intent on picking the pockets of workers. First we saw an attempt to give workers a pay cut by giving them comp time instead of overtime. The real meaning of comp time, of course, is unpaid time off at the employer's discretion.

Now, through administrative action, and without the input of elected representatives, the administration seeks to enact the most significant change to overtime rules since the Fair Standards Labor Act was passed in 1938. The result of these changes is that at least 8 million workers will no longer be eligible for overtime. Among the unlucky 8 million are paramedics, firefighters, air traffic controllers, social workers, and architects.

In 2000, overtime pay accounted for about 25 percent of the income for these workers. Their families will now have much less money to pay the bills, while their employers will have a great incentive to make them work longer hours.

The Obey-Miller motion to instruct will stop the rollback of overtime pay. This motion will protect the wages of America's working people.

Mr. OBEY. Mr. Speaker, I yield 5 minutes to the gentleman from California (Mr. GEORGE MILLER).

(Mr. GEORGE MILLER of California asked and was given permission to revise and extend his remarks.)

Mr. GEORGE MILLER of California. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, I wonder what it is that President Bush does not understand about the difficulty that the American family today is having trying to provide for their needs. Some 9 million people are unemployed in this country, actively looking for work, perhaps dropping out of the job market because they are so discouraged. There are some 3 million new unemployed in the last 2 years, 400,000 last month.

Do they not understand what these families are going through, many of these families with two earners, many of these families single heads of household? Now they want to come along and suggest that for millions of Americans who now get overtime under the law that they would no longer get that. Do they understand what it means to provide for a family, the average working person in this country, how important overtime is to those individuals? It could be up to a quarter of their wages. This is how they qualify for their home mortgage. This is how they qualify for their automobile payment. This is important to their family income on an annual basis.

What is it that so angers the Republicans that they want to constantly attack average working people in this country? As mentioned before, they wanted to provide them comp time. As mentioned before, they will not raise the minimum wage to help them. Now they want to strip them of their overtime. Do they not understand that when somebody calls and says at the end of the day that someone has to work another 2 hours, 3 hours, or 4 hours that that individual has to scramble for child care, that they have to scramble for transportation, they have to find somebody to stay with the children at home? Do they not understand what those costs mean to families? Can they not identify with these families?

Apparently, they cannot because they continue this assault on working families in this country. They continue this assault. Now, administratively, they want to decide that engineers and draftsmen, and engineering technicians without college degrees in the automotive and aerospace industry, because they did not have a 4-year degree but now have work experience, they will not be eligible for overtime. Health care employees without a 4-year degree, licensed practical nurses, dental hygienists, ultrasound technicians, physical therapists, respiratory therapists, laboratory technicians will no longer be allowed to have overtime. Cooks and chefs, if they got educated in the Army on how to be a cook, on how to be a chef, they will not be eligible for overtime because they got educated in the Army.

What is it this administration does not understand? What is it they do not understand when we have EMT teams, emergency medical technicians, one of whom supervises the other two in an ambulance for that night, that that person is not eligible for overtime but the other two are? How can that be just, how can that be fair if they have to work 50 hours or 60 hours a week? Why is it one of the people in the vehicle gets overtime and the other does not, simply because they may take command of that vehicle for that particular night?

That is the unfairness of these regulations. These regulations, as was said the other day in the newspaper by the big-employer consulting firms across this country, all of these changes are for the benefit of the employer. All of these changes enable the employer to take away overtime pay. It does not take away overtime. Workers still have to work the 50 hours, they still have to work the 60 hours, they still have to work that Saturday, they still have to work that Sunday. They just do not get paid for the extra time, the premium pay for the inconvenience to the worker.

This is incredibly unfair, incredibly insensitive to how families are struggling in this Bush economy to not only hold on to their job, but now they find out if they go and get additional education to improve their skills, they may lose their overtime. If they simply try to improve their worth to their employer, to improve their employability, they find out under these regulations they will not have overtime.

If an employer asks you, what do you think about Joe and they say I think Joe should be fired, and Joe is fired, that employer will say that they gave particular weight to your comments and you are ineligible for overtime.

What the hell is going on here? These are people who go to work every day on behalf of America's economy, on behalf of our society. They come home tired. They want to see their children. They need the overtime pay, and the Bush administration and the Republicans in this Congress are insisting that they take it away from them.

The SPEAKER pro tempore. The gentleman's time has expired. The gentleman will suspend.

Mr. GEORGE MILLER of California. * * *

The SPEAKER pro tempore. The gentleman will suspend.

Mr. GEORGE MILLER of California. * * *

The SPEAKER pro tempore. The gentleman will suspend.

Mr. GEORGE MILLER of California. * * *

The SPEAKER pro tempore. The gentleman will suspend. The gentleman's time has expired.

Mr. GEORGE MILLER of California. * * *

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. The time of the gentleman from California has expired. The gentleman will be reminded that he should not use profanity in debate on the floor of the House.

The Chair would advise Members that remarks uttered while not under recognition do not appear in the RECORD.

The Chair now recognizes the gentleman from Ohio.

Mr. REGULA. Mr. Speaker, I yield myself such time as I may consume.

I think we need to clarify some things here. Number one, this proposed regulation will offer a lot of hard-working Americans that have been alluded to here an opportunity to get overtime pay. These are the people making less than $65,000. They will then be eligible under this proposed regulation.

Now, we understand that these comments have to be evaluated and that the Secretary of Labor will ultimately have to rule on what is fair. And what we are trying to do is to give her this opportunity.

I want to quote from a letter from the Fraternal Order of Police: ''The proposed regulations offer an important opportunity to correct the application of the overtime provisions of the FLSA to public safety officers. We are therefore concerned that the retention of this amendment,'' as proposed by the other side, ''during conference committee deliberations will undermine our efforts to successfully protect overtime compensation for more than 1 million public safety officers and hinder the DOL's,'' Department of Labor's, ''ability to issue final regulations.''

They would propose, as it is outlined here, to hinder the possibility and protection of overtime compensation for more than 1 million public safety officers.

Now, one of the things that has been tossed around is that nurses would come under this. As a matter of fact, they will not. And the Nurses Association makes it clear that they are not covered, that it will not affect them, as far as their availability of overtime.

It is a matter of being fair. None of us drive, or very few, an automobile that is over 50 years old, yet we are operating under standards promulgated more than 50 years ago. Let us bring these up to date so that more Americans will be eligible to participate in the American Dream.

We cannot discount the fact that there is a possibility of a veto. Because if this were to happen, and if we were

to operate the Labor-HHS programs under a continuing resolution, as I have pointed out earlier, a lot of good programs would no longer get the increases that have been provided in our bill, starting with the $1 billion extra for IDEA.

Here is a chance to do something good for America. That is why the Secretary of Labor is proposing to take a look. And if you read this proposed restriction carefully, what it says is that none of the funds shall be used. I can see the lawyers in the Labor Department saying, hey, Congress has said none of the funds shall be used, and they put in certain conditions. So the Secretary of Labor, in all probability, would say we cannot take the risk so we will not do anything. The result would be that more than one million Americans would be denied an opportunity to participate in overtime.

I do not think Members here want to do that. I think they want to be fair. And the vote that is fair on this issue is to reject the motion to instruct and, in effect, reject the motion that we instruct the conferees to accept the Harkin amendment. Mr. Speaker, I urge Members to vote against the proposal of the gentleman from Wisconsin (Mr. OBEY).

□ 1345

Mr. Speaker, I reserve the balance of my time.

PARLIAMENTARY INQUIRY

Mr. OBEY. Mr. Speaker, parliamentary inquiry.

The SPEAKER pro tempore. The gentleman may state his parliamentary inquiry.

Mr. OBEY. Mr. Speaker, is the transcript that is being taken of today's proceedings in English or is it in some other language?

The SPEAKER pro tempore. The Chair would advise the gentleman that the transcript of the proceedings is in English.

Mr. OBEY. I thank the Chair for that clarification.

Mr. Speaker, I yield myself 30 seconds.

Mr. Speaker, I wanted to make sure that was the case because despite the comments of the gentleman from Ohio (Mr. REGULA), under our proposal that we are offering today, any worker who is added to the overtime protection rules by the new proposed rule is, by our motion, allowed to get that overtime protection. The only effect of our motion is to prevent the Department of Labor from knocking people off the overtime protection rules.

I have said it for the fourth time. I think I said it in English. I think the meaning is clear.

Mr. Speaker, I yield 1 minute to the gentlewoman from Oregon (Ms. HOOLEY).

Ms. HOOLEY of Oregon. Mr. Speaker, I want to be fair, and that is what this motion is all about, being fair to the working men and women of this United States.

I rise in strong opposition to the proposed rollbacks to protect overtime protection for American workers and to encourage my colleagues to support this motion to instruct conferees.

The language in the House-passed bill cheats working men and women of America out of just compensation for an honest day's work. The intent of overtime pay is to protect certain employees by establishing a 40-hour work week. It is an incentive to treat employees with dignity and fairness. I think most Members would agree with me that the vast majority of employers take great pains to protect their employees because they recognize the employees' ability to directly affect a business bottom line, but a few employers do not.

An empty promise for comp time at an undetermined time with no meaningful enforcement is not an incentive to protect workers. It creates hardships for working families in scheduling child care, it means a loss of income, and it is a cut in pay. That is what we have to remember. It is a cut in pay.

Mr. REGULA. Mr. Speaker, I yield 2 minutes to the gentleman from South Carolina (Mr. WILSON).

Mr. WILSON of South Carolina. Mr. Speaker, I rise in opposition to this motion to instruct. The Department of Labor is attempting to modernize overtime pay regulations that are over 50 years old, yet there are many that are distorting their common-sense efforts. The Fair Labor Standards Act of 1938 has not been amended since 1949, and only protects overtime pay for employees earning under $8,060, below even minimum-wage standards.

The Department of Labor has proposed new regulations that would guarantee overtime pay for anyone making less than $22,100. This means an additional 1.3 million low-income workers will be guaranteed overtime pay regardless of any other criteria.

Critics have argued that anybody making over $22,100 would lose their ability to receive overtime pay. That is not correct. The truth is, according to the Department of Labor's new standards, only certain white-collar employees who meet specific tests will qualify for exempt status. All other employees, regardless of their income, would be guaranteed overtime pay.

Mr. Speaker, I urge my colleagues to help give overtime pay security to 1.3 million additional low-income workers and support the new 541 regulations and oppose the motion to instruct.

Mr. OBEY. Mr. Speaker, I yield myself 20 seconds.

Again, that was a nice speech, but it was prepared against a proposition that is not before us. The proposition before us does allow the modernization of the law.

There, I have said it. I have said it five times in a row. It would be nice if someone heard it and paid attention. Otherwise we might as well adjourn because we are talking past each other.

Mr. Speaker, I yield 3 minutes to the gentleman from Maryland (Mr. HOYER).

Mr. HOYER. Mr. Speaker, to reiterate what the gentleman from Wisconsin has just said, the 1.3 million people are protected by the gentleman's motion, and they will be advantaged; but the millions of people who will be disadvantaged by the proposal of the Department of Labor will be protected by the gentleman's motion. That is the issue.

Under the Bush administration and this Republican Congress, our economy has lost more than 3 million jobs, including 2.5 million manufacturing jobs. President Bush has the worst job creation record of any President since Herbert Hoover, and with a new unemployment figure out tomorrow, the Department of Labor reported today that jobless claims rose last week to nearly 400,000 Americans.

The fact is working families have borne the brunt of the Republican Party's failed economic policies. The poverty rating increased last year for the second consecutive year. The ranks of the uninsured swelled by 2.4 million. The median household income plunged for the third straight year under this administration.

While millionaires reaped an average tax cut of $93,000 from the GOP's tax bill this year, this Republican Congress has failed to extend the child tax credit to families earning less than $26,000, 6.5 million families, 12 million children and 200,000 military personnel.

Now, as if to add insult to injury, the GOP is pushing new regulations that would strip more than eight million people from their eligibility for overtime pay under the Fair Labor Standards Act on which they rely to support their families, pay college tuition for their kids, pay their mortgage payment and car payment. The Secretary of Labor claims that businesses are lobbying for that change, and listen to this, ''not because they are getting any particular benefit but because they just want clarity.'' Give me a break.

''Firms that represent employers can hardly contain their glee,'' according to the Washington Post. Hewitt Associates, a human resources consultant, said ''Employees previously accustomed to earning, in some cases significant amounts of overtime pay, would suddenly lose that opportunity,'' under the Department of Labor's proposal. And the law firm that represents clients who will be advantaged by this bill said, ''Thankfully, virtually all of these changes should ultimately be beneficial to employers.'' I am for benefiting employers, but I am not for not benefiting employees.

Mr. Speaker, this Democratic motion instructs conferees to accept the Senate-passed provision to block the Bush administration's proposed rule changes that adversely affect employees while keeping those that do.

Mr. Speaker, we have been advised that profanity was out of order on this floor; doing things that are profane ought to be as well.

Mr. REGULA. Mr. Speaker, I yield 2 minutes to the gentleman from California (Mr. CUNNINGHAM), a member of the subcommittee.

Mr. CUNNINGHAM. Mr. Speaker, it is just wonderful being on the House floor with no partisanship. Is not it wonderful for Democratic leaders to stand up and say how bad the Republicans are doing, no matter what bill we have up here?

We want to throw people out of houses, we want to do this, our economic policies are terrible, it is destroying the country. Well, there is an election coming up, Mr. Speaker, and they are desperate.

In 1993, they had the highest taxes against anybody ever. They cut military COLAS, they cut veterans' COLAS, they cut the gas tax. When they promised tax relief on the middle class, they increased that tax on the middle class. And then in 1994, we limited the tax on Social Security, we restored the veterans' and military COLAS. We cut the gas tax that they had in a general fund. And guess what, we eliminated most of their stuff.

And in 2000 there started to be a recession, and we had tax relief. According to Alan Greenspan that recession slowed, and then we had, guess what? 9/11. The billions of dollars that it took to restore not just New York, the Pentagon and the war on terror, but look at what it did to the stock markets and the economy. So I would curb a little bit of the partisanship from the Democrat leaders. They want this body, the other body, and they want the White House, and they are likely to say just about anything when they get up here, but it is not true, Mr. Speaker.

Mr. REGULA. Mr. Speaker, I yield 3 minutes to the gentleman from Pennsylvania (Mr. WELDON).

Mr. WELDON of Pennsylvania. Mr. Speaker, I have been here 17 years. I was not going to speak on this issue, but as I sat in my office I heard speaker after speaker mention the word ''firefighter.''

Now, I came to the Congress as a firefighter, and I spent the first part of my career when the other side had control of this body fighting on behalf of firefighters. It was not the other side who delivered a program for grants for fire departments in America, although we had bipartisan support, it was when we controlled the Congress that we passed the Assistance to Firefighter Grant Program, which this year is providing $750 million for fire departments across the country.

And it was not during the control of the other side, despite the rhetoric that we have heard out of the leadership on that side, and will hear later on, that we do not care about firefighters. It was not the other side when they controlled the Congress that started a grant program to hire more firefighters, but when the defense bill passes next week on the floor of the House, the conference report, there will be a $7.6 billion program for firefighters. That was done under Republican control of the Congress.

So when my colleagues stand up and say we are hurting firefighters, cut me a break. In my 17 years here, we have worked in a bipartisan way for firefighters, and for them to come to the floor today and say that somehow this is meant to gut them is an absolute lie.

I just got off the phone with the firefighters' union, the firefighters' union. I set up the meeting with Secretary Chao and the firefighters over a month ago, and they are satisfied and they told me I could say this on the floor, they are satisfied with the assurances they have that they will not be impacted by this, and neither will the paramedics and neither will the FOP and the first responder community.

So for the other side to stand up here and use that over and over again galls me because where were they when I was fighting for the firefighters for the years that they controlled this body? What did you do to give us a grant program? What did you do to put more firefighters into the cities? You did nothing. You did nothing. For you to stand up here and say somehow you are protecting the firefighters, you can be as smug as you want as you sit there, but you did nothing to support the firefighters and the emergency responders of this country.

This motion to instruct does not protect them. They are already satisfied. The leadership of the union told me that 10 minutes ago, so I stand up here and tell my colleagues on the Republican side, you can vote against this motion to instruct, and you are not going to hurt any firefighters. You are not going to hurt any paramedics or nurses or police, and their national associations will tell you that. Sure, they are not going to endorse this because the AFL–CIO has come out against it, but the facts are the facts.

So I ask my colleagues on the both sides of the aisle to consider it based on the facts and do not listen to the rhetoric that I heard out of every Member on the other side, or I would not have been here for the last few minutes' rail about how they are concerned about the Nation's firefighters. I urge Members to oppose the motion to instruct.

□ 1400

Mr. OBEY. Mr. Speaker, I yield myself 1 minute.

Despite the hyperventilation we have just heard, the fact is that there will be up to 8 million workers hurt unless this motion is passed.

Mr. WELDON of Pennsylvania. Mr. Speaker, will the gentleman yield?

Mr. OBEY. No, I will not. The gentleman has had his time to bloviate. This is my time.

As I was saying, Mr. Speaker, the issue is very simple. Are you going to protect the up to 8 million workers who will be knocked out of protection for overtime if this motion does not pass? That is the only issue before us, despite all the other claims to the contrary. In a few short moments, we will see who cares about workers and who does not.

Mr. Speaker, I reserve the balance of my time.

Mr. REGULA. Mr. Speaker, I yield the balance of my time to the gentleman from Ohio (Mr. BOEHNER), the chairman on the committee of jurisdiction for authorizing legislation of this type.

Mr. BOEHNER. Mr. Speaker, I want to thank my colleague for yielding me this time and remind our Members that there is an awful lot of rhetoric that has been said on the floor today. If you had listened to all of it, you would think that the Labor Department was out to eliminate the overtime pay in America. Nothing could be further from the truth. We all know that the Fair Labor Standards Act that controls who gets overtime and who does not, what all the workplace rules are, has not been updated since I have been born, 1949. We all know that for decades we have had difficulties, employees have had difficulties, employers have had difficulties understanding the regulations in terms of who is entitled to overtime pay and who is not.

When you have all this confusion, guess who decided to come into the middle of this? The trial lawyers, of course; and they are filing class action lawsuits, trying to make some determination about what the law is.

So the Department of Labor has taken the courageous position of going out and issuing, or attempting to issue, regulations about bringing clarity to the situation so that workers will know whether they are entitled to overtime pay and employers will know what the law means, who is covered and who is not.

I think that the regulations that we have, the draft regulations that have been issued, needed a little work. I think most Members would agree. That is why the Department of Labor got 80,000 comments on their proposal. The Department currently is in the process of looking at those 80,000 and trying to determine whether they need to make adjustments.

Under the proposal, those people who today make a little over $8,000 are guaranteed overtime, regardless of what their position is. Under the proposal, that number would rise to $22,100. If you make that amount or less, you are guaranteed overtime. That would affect over 1 million American workers who will be guaranteed overtime who may not be guaranteed that they will get it today.

But why do we want to stop this proposal from moving? We do not have to do that. We do not know what the final regulations are going to be, and we do not know when they are going to come. We have got the Congressional Review Act if you disagree with what they finally propose, but I think bringing clarity to this situation is very important.

Let me also say that the effect of the gentleman's motion to accept the Harkin language from the Senate would effectively only do one thing, allow the Department to do one thing, and that would be to raise the threshold from over $8,000 to $22,100. Because it also goes on to say in the Senate language that any proposed regulation that would eliminate one person's ability to get overtime means that the proposal cannot go into effect. No job reclassifications. No new titles. It effectively eliminates all the modernization that we are trying to seek in these new regulations. That is unfair to American workers, and it is unfair to employers who are stuck in the dilemma today that we need to resolve.

Mr. Speaker, I would suggest to all of my colleagues today that we ought to allow this procedure to go ahead. Let the Department of Labor look at those 80,000 comments and make decisions about what the draft says and what the final regulations really ought to be. If in fact they issue regulations, we have the Congressional Review Act instituted in this Congress in 1995 to allow us under an expedited procedure in both the House and Senate to look at the regulations; and, if we disagree with them, we can overturn them just like we did with the ergonomics regulations that were issued 1 week after President Bill Clinton left office.

Vote ''no'' on the motion to instruct.

The SPEAKER pro tempore (Mr. SHIMKUS). The time on the majority side has expired.

Mr. OBEY. Mr. Speaker, I yield the balance of my time to the distinguished gentlewoman from California (Ms. PELOSI), the minority leader.

Ms. PELOSI. Mr. Speaker, I thank the gentleman for yielding me this time; and I thank him for his extraordinary leadership on behalf of working families in America.

This motion to instruct which he is bringing to the floor and supported by the ranking member on the committee of authorization, the gentleman from California (Mr. GEORGE MILLER), is a very, very important piece of legislation to support the position that was taken in a bipartisan way in the other body.

Much has been said earlier about the use of profanity on the floor of the House and that it should not be allowed, and we heard the earlier heated debate over that.

What about obscenities, Mr. Speaker? Are obscenities allowed on the floor of the House? Because what is in this legislation as it would come to the floor without the motion to instruct is an obscenity. It is an insult to America's working families.

We expend a great deal of rhetoric around here about how supportive we are of working families in our country. They are important to us. They do our work. They raise our families. Indeed, we are all a part of it. So when we see an initiative from the administration that undermines the ability of parents to provide for their families, I call that an obscenity.

The Bush administration proposal would mean a pay cut for 8 million workers in our country. Millions of workers depend on that overtime pay to make ends meet. Indeed, it triggers their ability to get a mortgage or a car loan or send their children to school. In the year 2000, overtime pay accounted for about 25 percent of the income of workers who worked overtime. Millions of workers who receive time and a half for their overtime work today will be required to work longer hours for less money under the Republican proposal. Millions more who have long depended upon overtime work to help make ends meet will face effective pay cuts as opportunities to work overtime are diminished. Even workers still covered by overtime pay could suffer a pay cut because employers would shift overtime assignments to the millions of workers who would no longer be entitled to overtime pay.

The Bush administration proposal would mean longer hours, effectively undermining the 40-hour workweek. The many millions of workers denied overtime protection under the Department of Labor proposal would no longer be paid anything, anything, for their overtime. More work, less pay. If employers no longer have to pay extra for overtime, they will have an incentive to demand longer hours; and workers will have less time to spend with their families.

This ill-advised proposal from the administration comes at a very bad time for our economy. Certainly Democrats and Republicans alike want to modernize the regulations regarding overtime. But we must not use that modernization to undermine pay and working hours for America's families.

But this proposal, as fraught with pain as it is for America's families, comes at a time, in fact, on the day when the new figures were released just today on unemployment claims. They are up nearly 400,000, the place where some economists think that you are at the definition of weakness in our economy in terms of the labor market relationship. This is on top of the 3.3 million jobs that have been lost during the Bush administration, the worst record of job creation of any President. He is in the category of Herbert Hoover.

Every President since Herbert Hoover has created jobs. Some more, some less. Under President Clinton, 22 million new jobs were created. Under President Bush, to date, over 3.3 million jobs have been lost. The figures for first-time people applying for benefits again is in the record-breaking category.

So, in that context, we have a regulation modernization being brought to the floor of this House that is very much needed to be amended; and that is what our distinguished ranking member on the committee is doing, along with the gentleman from California (Mr. GEORGE MILLER).

Median household incomes have already fallen $1,400 since Bush became President. Now he wants workers to be paid even less. Millions of workers who now receive time and a half for their overtime will be required to work longer hours, more hours for less pay. Millions of Americans depend on overtime pay, but the Bush proposal would deny overtime pay to 8 million workers who now earn such pay. It bears repetition.

In times of elections and even just to measure the popularity of a President, there is a question that is asked by pollsters that says, cares about people like me, yes or no. Today, this House of Representatives has the opportunity to say to the American people that we care about people like them. We care about middle-income working families.

This is not a labor issue. These are people who are not organized. Union people have their pay and working conditions and hours established in contracts. These are about other workers in our country.

Again, other speakers have gone into detail about how if you are just seen as supervising other workers, if that responsibility is yours, then you are not eligible for overtime. So the harder you work, the better you do, the less pay you will make. How can that possibly be fair? I think it is not only unfair, I think it is an obscenity.

Due to the remarks made earlier about profanities not being allowed on the floor, I do not think obscenities should be, either. That is why I commend the very distinguished gentleman from Wisconsin for presenting the motion to instruct for this House to agree in conference to the language of the Senate, to the Harkin amendment, if that is allowed to be said on the floor.

Mrs. CHRISTENSEN. Mr. Speaker, I rise to support this motion to go to conferees and to accept the important Senate provisions which would prevent the administration from once again taking their failed economic policies out on working families. We must block the provision which would deny the overtime that may be the only thing keeping many families going.

But also of great importance to me, and to millions of Americans from our racial and ethnic minority populations are the requests we made as this bill went through the subcommittee.

First, we would ask reconsideration be given to several measures that deal specifically with minority health.

Mr. Speaker, we would ask that in light of the increasing toll of HIV/AIDS on people of color, which cry out for the need for more funding that the Conference reconsider funding the Minority HIV and AIDS Initiative at the full $610 million requested, and that the language submitted also be included. I am deeply concerned by recent CDC reports regarding the instability in its recompetiton process and the strategy to only work with HIV positive populations. I believe that the HIV/AIDS epidemic demands a comprehensive prevention effort that includes primary and secondary approaches.

I would also submit that the escalating disparities in health and death rates for people of

color that they requested for $66 million for the Office of Minority Health (OMH). OMH is the Department of Health and Human Services' (DHHS) lead office for improving the health status of racial and ethnic minorities; $225 million for the National Center for Minority Health and Health Disparities to further address minority health and health disparities and to help improve the infrastructure associated with this research; as well as a $120 million for the Racial and Ethnic Approaches to Community Health (REACH) grants initiative aimed at helping to eliminate disparities in health status experienced by ethnic minority populations in cardiovascular disease, immunizations, breast and cervical cancer screening and management, diabetes, HIV/AIDS and infant mortality also be considered.

Of equal concern and need is the request for full funding $45 million for the Health Careers Opportunity Program, (2) $45 million Minority Centers for Excellence, (3) $55 million for Scholarships for Disadvantaged Students, (4) $4 million for Faculty Loan Repayment and Faculty Fellowships and (5) $160 million for the Public Health Improvement of Centers for Disease Control. Diversity in the health professions, including increasing the proportion of under represented U.S. racial and ethnic minorities among health professionals is a requirement to ensure competent service in our diverse Nation, elimination of health disparities and health for all.

Again, to help close the health disparities in our society, we ask you to urge the conferees to support the request of the Congressional Black Causus. I have attached a copy of my statement made before the Appropriation subcommittee to review the necessary justification. And I urge my colleagues to support this motion to go to conference.

STATEMENT OF HON. DONNA M. CHRISTENSEN BEFORE HOUSE APPROPRIATIONS COMMITTEE, SUBCOMMITTEE ON LABOR, HEALTH AND HEALTH SERVICES AND EDUCATION, MAY 6, 2003

Thank you Mr. Chairman, Ranking member and other members of the committee, I appreciate the opportunity to testify on this important panel again this year.

You already have my written testimony which contains the details of the specific funding and language requests. Although I will be speaking specifically to issues in the African American communities, my remarks are generally applicable to all communities of color and many rural communities as well.

Let me say at the outset Mr. Chairman, that my colleagues and I remain grateful to you and your colleagues for the support you have given us both on the Minority HIV/AIDS Initiative, as well as on our efforts to end the disparities in health care.

When I appeared before you last year, I began my remarks by informing the subcommittee of the fact that this great country of ours ranks at the bottom of all of the industrialized countries of the world with regard to the quality of our health care system, we are not where we should be given our resources in infant mortality, HIV/AIDS, immunization, substance abuse and many of the major diseases. In most cases the reason is because more than one third of our population remains outside of the healthcare mainstream.

Today almost 43 million Americans are uninsured, of which 50 percent are minorities: 18 percent of the total elderly population has no coverage at all; 1 out of 6 Americans do not have health insurance; more than 100,000 people lose their health insurance every day; and an astounding 23 percent of African Americans have no insurance at all.

Our health care system in this country is currently in peril. It is falling short on promise and contributing to the disabling illness and premature death of the people it is supposed to serve. The picture is the worst for African Americans who for almost every illness are impacted most severely and disproportionately—in some cases more than all other minorities combined. Every day in this country there are at least 200 African Americans deaths, which could have been prevented. Today we know that much of it happens because even when we have access to care, the medical evaluations and treatments that are made available to everyone else are denied to us—not only in the private sector but in the public system as well.

What I am here to try to do today is to leave you with one indelible message: that there are gross inequities in healthcare which cause hundreds of preventable deaths in the African American community everyday and which tear at families, drain the lifeblood of our communities, and breed an escalating and reverberating cycle of despair which this subcommittee has the power to end today if it has the will to do so.

The choice if it can be considered that, is either to write off human beings—our brothers and sisters—who make up this segment of our population, or to make the requisite investment in fixing an inadequate, discriminating, dysfunctional health care system.

The current strongly held-to ''cost-containment'' paradigm while it sounds good on the surface, has obviously not worked. We now have double digit increases in premiums in an industry that was to rein in its costs. What it did instead was create a multi-tiered system of care, both within managed care and without. Those at the lowest rungs of the system got sicker, the sicker, ie. more costly, were and still are being dropped, and those who were the sickest were and remain locked out entirely. So not only are health care costs continuing to escalate, the overall health picture in this country is worse than ever.

What we now have is a system, which continues the failed paradigm in which African Americans and other people of color who because they have long been denied access to quality health care, now experience the very worse health status. Not doing what is needed to change this is to threaten the health of not just African Americans and other people of color but every other person in this country, especially at a time when we live under the cloud of possible bioterrorism.

Controlling the cost of health care, which can only be done in the long term, will never be achieved without a major investment in prevention, and leveling the health care playing field for all Americans through fully funding a health care system that provides equal access to quality, comprehensive health care to everyone legally in this country, regardless of color, ethnicity or language.

The funding requests I am outlining today are the bare minimum to ensure that our children have the opportunity for good health, that there are health care professionals who can bridge the race, ethnicity and language gaps to bring wellness within reach of our now sick and dying communities, that states and communities will receive the help to fill the gaps and repair the deficiencies of access and services, and which will enable the affected communities themselves to take ownership of the problems as well as the solutions to their increasing healthcare crisis—a crisis that threatens the health and security of all Americans.

If we have learned nothing in the last 10 years, we should have learned that cost containment strategies in our unequal system of care can never bring down healthcare costs. We can only insure that quality health care will be within the reach of future generations if we make a major investment in prevention and increasing access to care now.

On March 20, 2002, the Institute of Medicine (IOM) released a landmark report entitled: Unequal Treatment: Confronting Racial and Ethnic Disparities in Health Care which was requested by Congressman Jackson. Among other key findings, the report documented that minorities in the United States receive fewer life-prolonging cardiac medications and surgeries, are less likely to receive dialysis and kidney transplants, and are less likely to receive adequate treatment for pain. Its first and most telling finding states that ''racial and ethnic disparities in healthcare exist and, because they are associated with worse outcomes in many cases, are unacceptable.''

And so I urge the committee to give serious and favorable consideration to our funding requests. Because of time limitations let me focus on just a few areas contained in the request.

$66 MILLION FOR THE OFFICE OF MINORITY HEALTH, OS, DHHS

As the Department of Health and Human Services' (DHHS) lead office for improving the health status of racial and ethnic minorities, the Office of Minority Health (OMH) conducts and supports health promotion and disease prevention programs and activities designed to help reduce the high rates of death and disease in communities of color. OMH also serves as one of the focal points for the Department's initiative to eliminate health disparities. By increasing funding to $20.9 million, this office will be able to expand OMH's elimination of health programs in prevention, research, education and outreach, capacity building, and the development of community infrastructure. The increased funding is also needed to fund the State Partnership Initiative Grant Program; Cultural and Linguistic Best Practices Studies; State Health Data Management; Community Programs to Improve Minority Health Grants; Center for Linguistic and Cultural Competence in Health Care; Eliminating Obstacles to Participating in Government Programs; Technical Assistance to Community Health Program; and Community-Based Organization Partnership Prevention Centers.

$225 MILLION FOR THE NATIONAL CENTER FOR MINORITY HEALTH AND HEALTH DISPARITIES (NCMHD), NIH

Funding is needed to develop and implement programs necessary to further address minority health and health disparities and to help improve the infrastructure associated with this research and outreach. In addition, the loan repayment payment must be expanded to include master degree graduates from schools of public health and public health programs to ensure that efforts to build and disseminate research-based health information are intensified. As required, the Center is currently developing a strategic plan to guide the Center's efforts. To be effective, the plan must include and reflect the direct input of the NIH institutes and centers; consumer advocacy groups; the public; researchers; professional and scientific organizations; behavioral and public health organizations; health care providers; academic institutions; and industry. The resulting plan is needed to serve as a fundamental blueprint for the Center's activities, as well as a vehicle for helping to ensure a coordinated and effective response to minority health and health disparities.

$120 MILLION FOR THE RACIAL AND ETHNIC APPROACHES TO COMMUNITY HEALTH (REACH), NATIONAL CENTER FOR CHRONIC DISEASE PREVENTION AND HEALTH PROMOTION, CDC

The REACH program is a cornerstone CDC initiative aimed at helping to eliminate disparities in health status experienced by ethnic minority populations in cardiovascular disease, immunizations, breast and cervical cancer screening and management, diabetes, HIV/AIDS and infant mortality. The increase is needed to fund additional Phase I planning grants, Phase II implementation and evaluation grants, expand and enhance technical assistance and training, and apply lessons learned. REACH received 211 applications in its first year, but only had enough funding to make 31 awards, leaving a very large number of meritorious projects unfunded. REACH must have the resources necessary to capitalize on the strengths that national/multigeographical minority organizations can provide the initiative.

$300 MILLION FOR THE AGENCY FOR HEALTHCARE RESEARCH AND QUALITY (AHRQ)

At a hearing before the Criminal Justice Subcommittee of the Government Reform Committee on May 21, 2002, AHRQ Acting Director Dr. Carolyn Clancy described the initiatives undertaken by her agency to attack health disparities. One of the most important of these is the EXCEED program, which funds Centers of Excellence to eliminate health disparities in nine cities around the country. These include efforts to address diabetes care for Native Americans, health disparities in cancer among rural African American adults, and premature birth in ethnically diverse communities in Harlem, New York. According to Dr. Clancy, ''EXCEED encouraged the formation of new research relationships as well as building on existing partnerships between researchers, professional organizations, and community-based organizations instrumental in helping to influence change in local communities.''

The EXCEED program exemplifies the type of initiative recommended by the IOM report, which urged ''further research to identify sources of racial and ethnic disparities and assess promising intervention strategies'' (Recommendation 8–1). Yet the Administration's 2003 budget would curtail these efforts. In the budget, total AHRQ funding falls from $300 million in 2002 to $251 million in 2003. About $192 million of the AHRQ budget is protected from the cutbacks, meaning that $49 million must be trimmed from the remaining $108 million of spending, a 46 percent cut. The EXCEED program and other research grants to study and reduce health disparities fall into this vulnerable $108 million.

INCREASE OF $14 MILLION DOLLARS FOR THE U.S. DHHS OFFICE OF CIVIL RIGHTS (OCR) AND A REWORKING OF AUTHORIZATION LANGUAGE TO TIE IT TO DISPARITY WORK U.S. DHHS OFFICE OF CIVIL RIGHTS TO ENFORCE CIVIL RIGHTS LAWS

Enforcement of regulation and statute is a basic component of a comprehensive strategy to address racial and ethnic disparities in healthcare, but it has been relegated to low-priority status. The U.S. DHHS Office of Civil Rights (OCR) is charged with enforcing several relevant Federal statutes and regulations that prohibit discrimination in healthcare (principally Title VI of the 1964 Civil Rights Act), but the agency suffers from insufficient resources to investigate complaints of possible violations, and has long abandoned proactive, investigative strategies.

Despite an increasing number of complaints in recent years, funding for OCR remained constant in actual dollars from fiscal year 1981 to fiscal year 2003, resulting in a 60 percent decline in funding after adjusting for inflation. The decrease has severely and negatively affected OCR's ability to conduct civil rights enforcement strategies, such as on-site complaint investigations, compliance reviews, and local community outreach and education. Providing a substantial increase in funding for the Office of Civil Rights is necessary for OCR to resume the practice of periodic, proactive investigation, both to collect data on the extent of civil rights violations and provide a deterrent to would-be lawbreakers.

INCREASED FUNDING FOR INITIATIVES FOR HEALTH PROFESSIONS TRAINING

(1) $40 million for the Health Careers Opportunity Program ($5.2 million increase);

(2) $40 million Minority Centers of Excellence ($7.4 million increase);

(3) $52 million for Scholarships for Disadvantaged Students ($5.8 million increase); and

(4) $3 million for Faculty Loan Repayment and Faculty Fellowships ($1.67 million increase)

Diversity in the health professions offers numerous benefits, including ''increasing the proportion of under represented U.S. racial and ethnic minorities among health professionals''. (IOM Report). Such efforts were supported by HHS in the past, but now are threatened with extinction.

The spring 1999 issue of the HHS Office of Minority Health's newsletter Closing the Gaps focused on the theme of ''Putting the Right People in the Right Places.'' The newsletter highlighted the startling under representation of ethnic and minority groups within the health professions and stressed the important role of three programs: (1) the Health Careers Opportunity Program, which trains more than 6,000 high school and undergraduate students each year and is associated with acceptance rates to health professional schools that are 20 percent higher than the national average; (2) the Minority Faculty Fellowships Program, which addresses the problem that ''just four percent of faculty at U.S. health profession schools are minorities''; and (3) the Centers of Excellence Program, which works with Historically Black Colleges and Universities and Hispanic Serving Health Professions Schools to ''recruit and retain minority faculty and students, carry out research specific to racial and ethnic minorities, provide culturally appropriate clinical education, and develop curricula and information resources that respond to the needs of minorities.''

Unfortunately, the very same programs highlighted by HHS in 1999 as successful have disappeared from the President's 2004 budget. In fact, all of these programs received zero funding or are scheduled for elimination.

To insure that no one is denied necessary health care because of race ethnicity or language, they must have the tools to do their job. Bringing equity into our healthcare system demands a funding increase for this office.

$50 MILLION TERRITORIAL HOSPITALS AND HEALTH DEPARTMENTS

Mr. Chairman, years of Medicaid caps have and continue to create a crisis in the healthcare systems in the offshore territories. To address and resolve this, last year I requested that the sum of $50 million be made available to the secretary for territorial hospitals and health departments to close some of their critical health care gaps and repair infrastructure deficiencies. I repeat this request again for this year's appropriation.

Because of the Medicaid cap, and a match that is not indexed for average income level, both which are Congressionally set, we are unable to cover individuals at 100 percent of poverty—for the Virgin Islands it is closer to 30 percent below that income level. Under the cap, spending per recipient is at best one-fifth of the national average.

Our hospitals are struggling, because the cap prevents them from collecting full payments for the services they provide, and they are also unable to collect Disproportionate Share payments, despite the fact that about 60 percent of their inpatients are below the poverty level. About one third of these qualify for Medicaid, which as I indicated before, never fully reimburses them. The rest of their patients have no coverage whatsoever.

Long-term care is limited, and thus unavailable to persons and their families who need it, not because the rooms are not there, but because we do not have enough Medicaid dollars to pay for them, even though the federal funds are matched 2 to 1 by local dollars—far above our requirement. While many states are covering women and their minor children well above 100 percent of poverty, we cannot even come close.

Along with my fellow representatives from Guam American Samoa and Puerto Rico, I have introduced bills to both remove the Medicaid Cap as well as, for the first time, provide for the creation of a Disproportionate Share payment to our hospitals.

Our final request Mr. Chairman once again deals with the Minority HIV/AIDS Initiative. We are here today once again to request funding for the full amount of our request for the MAHI in the amount of $610 million. While our review of the current programs demonstrates the need for increased funding, in light of our other requests which all have the potential to impact this epidemic to some degree, and the budgetary constraints of our government we are requesting a need-based increase over our 2002 request of $70 million. We strongly believe that the $610 million request is absolutely necessary if we are to have any success whatsoever in stemming the tide of this epidemic which continues to ravage our communities.

Once again, the purpose of the special and targeted funding is to provide technical assistance and to increase the capacity of our own communities to administer programs aimed at prevention and treatment, and to bolster or build the infrastructure needed to make all life saving measures accessible.

The Minority HIV/AIDS request is not meant to be the total funding for communities of color but should be utilized in such a way to better enable our communities, that are hard to reach and out of the mainstream, to access the $8 billion plus that is available for HIV and AIDs.

It is also important to point out that as serious an issue as it is, HIV and AIDS is just one symptom of all that is wrong in our communities, many of which come under the purview of this subcommittee. This funding will not only be successful in the fight against long term HIV & AIDS but also in all other areas, if in the long term the underpinnings of our communities are also strengthened.

There is a critical part of the Minority HIV/AIDS initiative request, which does not involve money. It is one of language.

Mr. Chairman, the intent of the MAHI is to ensure that its funds, which are only a small part of overall HIV/AIDS funding, are used to build capacity within African American and other communities of color which are the ones now being disproportionately impacted. The current of the language initiative has not maintained that focus. We are therefore requesting that the original FY 1999 language be restored or be mirrored, in your 2004 bill, with the following change which I believe meets the concerns of the Department with regard to discrimination, while

empowering our communities which is the only way we can effectively control this and the other diseases which create the disparties.

In summary, I join my colleagues here this morning to call on this esteemed and distinguished subcommittee to make a commitment to eliminate the disparities that have existed for centuries and are increasing today for African Americans, and to finally ensure equality in health care for us and every one in this otherwise great country.

The cost in dollars today will be significant, but the cost in lives and to our economy in the future are risks that we must not take.

There is no question that health disparities are deeply rooted in our medical system and in our culture. Eliminating them is going to take a lot more than one leadership summit or one media campaign. It will take a long-term commitment. It will take a long-term investment.

This subcommittee and the larger committee have the power to eliminate disparities in health care. This is an important part of the stewardship on which we will all be judged.

Dr. Martin Luther King, Jr. once said, ''Of all the forms of inequality, injustice in health care is the most shocking and inhumane.'' We have a moral obligation to end injustice in health care and health disparities among Americans. I urge my colleagues to support this request.

On behalf of the Congressional Black Caucus, and personally, I thank you once again for the opportunity to testify.

PRESS RELEASE

HOUSING AND URBAN DEVELOPMENT SENDS FUNDING TO THE VIRGIN ISLANDS

(WASHINGTON, DC, October 2, 2003).—Delegate to Congress Donna M. Christensen is pleased to announce that the following two agencies have received funding from the U.S. Department of Housing and Urban Development.

University of the Virgin Islands receives F'sted Development Grant

The University of the Virgin Islands will receive $541,000 in the form of a Historically Black Colleges and Universities grant. This grant will be used to address community development needs on the islands of St. Croix, specifically in Frederiksted. UVI and Our Town Frederiksted will revitalize neighborhoods and address critical community development needs. They will work on infrastructure improvements and community reinvestments to stabilize the town and build the economy of the area.

Housing receives $1.3 million in HOME Investment Partnership's Program

The Government of the Virgin Islands will receive $1,340,000 for Fiscal Year 2003 HOME Investment Partnerships Program. This program will include activities such as mortgage buy downs through construction of affordable housing and homebuyers assistance.

U.S. DEPARTMENT OF COMMERCE DELIVERS FUNDING

The Delegate is pleased to announce that the Virgin Islands Department of Planning and Natural Resources will receive $481,350 in grants from the U.S. Department of Commerce.

The first grant in the amount of $131,500 will provide financial assistance for National Centers of Central Coastal Ocean Science. The program will assist in the expansion of coral reef monitoring and resources assessments in the VI, through collaborative efforts among individuals from territorial and federal agencies and organizations. An effort will also be made to develop a Marine Park Monitoring Plan.

The second grant in the amount of $349,850 will be used for Coastal Zone Management Administration Awards program. This program will provide funding for the VI for our Coral Reef Management projects. This will include the implementation of an enforcement action plan, and education and outreach action plan and a water quality monitoring action plan for newly established East End Marine Park and the development of a research and monitoring action plan for the East End Marine Park.

Mr. CUMMINGS. Mr. Speaker, I rise today to lend my wholehearted support to the motion to instruct the conferees, offered by Mr. OBEY and spearheaded by Mr. MILLER of California, on the Labor, Health and Human Services and Education Appropriations bill, which would instruct the conferees to recede to the Senate and accept the Harkin amendment. This amendment prohibits the Department of Labor from issuing regulations that take away overtime protection from employees who are currently entitled to receive it.

Mr. Speaker, the national economy and our working families are struggling. This White House administration has the dubious honor of having the worst job creation record since the Great Depression. Since 2001, over 3 million jobs have been lost. The Nation's jobless rate hovers around 6.4 percent and is substantially higher in communities of color, at over 10 percent.

Additionally, the administration's rounds of tax cuts are projected to cost the Federal treasury $3.12 trillion over the next decade. We have gone from a $5.6 trillion surplus to a $4 trillion deficit. While real wages continue to fall, simultaneously the income gap continues to widen and middle class taxpayers are being asked to sacrifice more each day.

Mr. Speaker, now to add insult to injury, the Bush Labor Department is now proposing regulations that will hit as many as 8 million hard working American families. If these regulations are implemented the Federal Government will reach into the pockets of these hard working Americans and cut the overtime pay they depend on to pay their mortgages, feed and educate their children, care for their sick and elderly parents, and preserve their standard of living. It is estimated that overtime pay accounts for roughly 25 percent of the income of people who work overtime. Hardest hit will be our first-responders and healthcare professionals, amongst others.

Mr. Speaker, it is irresponsible to grant huge tax cuts to the wealthiest 1 percent of U.S. taxpayers while cutting the legs from underneath middle-class working Americans. Is this the message we want to send to those whom we have asked to sacrifice their sons and daughters in Iraq? To those who are sacrificing better schools, safer communities and access to healthcare while the Federal deficit grows exponentially, meaningful programs are cut and the wealthiest 1 percent enjoy an enormous $84,000 tax cut.

I urge my colleagues to protect middle-class working Americans by supporting this motion to instruct. Many American families are already struggling to make ends meet with one wage earner. Cutting overtime pay will put them in further economic hardship. Let's be fair to our nation's most valuable assets—our working men and women and their families.

Ms. EDDIE BERNICE JOHNSON of Texas. Mr. Speaker, the assault on overtime pay is nothing less than an attempt to pick the pockets of millions of hardworking Americans.

By stripping 8 million workers of their right to be paid for the hours they work, Republicans have issued another callous insult to families struggling to make a living. Since many of those who will be affected are nursing professionals, police, firefighters and other ''first responders,'' it sends another stinging message to the people we turn to and who routinely undertake the most thankless tasks in our times of need.

Mr. Speaker, over 3 million Americans have lost their jobs since President Bush took office, and countless others don't appear in the employment statistics because they have given up hope of finding a job.

Isn't in enough that the Bush administration has presided over the loss of 3 million private-sector jobs. It has failed to raise the minimum wage. It is allowing millions of older workers to lose half their private pension benefits. It has denied unemployment benefits to millions of workers who exhausted their Federal unemployment benefits. It has gutted worker safety protections, and denied working family's tax cuts—including the child tax credit—while showering hundreds of billions in cuts to the wealthiest of Americans.

As an experienced nurse, I want to draw your attention to serious dangers posed by this measure which threatens not only the pay of millions of nurses and other health care workers, but also the safety of patients in our health care facilities.

Healthcare professionals, particularly nurses, are working an increasing amount of mandatory overtime, patient care and contributing to the ranks of the over 500,000 trained nurses who have left their field.

Mr. Speaker, the current nursing workforce is aging. The shortage of registered nurses in my home State of Texas is becoming more critical. Texas will experience a deficit of 10,000 RNs by 2005, 16,000 by 2010 and 50,000 by 2020, according to a July 2002 report from the Health Resources and Services Administration.

I am afraid that this will lead to drive even more nurses away from clinical settings at a time when the Nation is struggling to develop policies that will keep today's nurses at the bedside and attract more students into nursing for the future. It is unrealistic to imagine that nurses will remain in jobs where they have lost the guarantee that they will be paid premium wages, or any wages at all, when they are forced to work overtime hours.

Mr. Speaker, what in the world is it about Americans who are working hard to provide for their families that this administration just can't stand?

I urge my colleagues to vote ''yes'' on the motion to instruct conferees to accept Senate-passed provisions. We must block the Bush administration regulations that would deny overtime pay to millions of employees.

Ms. WOOLSEY. Mr. Speaker, I rise in support of the Obey motion to instruct conferees on the Labor-HHS Appropriations bill.

the Bush administration continues to have a failing record on supporting our nation's working families. Instead of giving workers a leg up, the administration continues to hold working Americans down. By altering overtime regulations this administration is cutting the pay for as many as 8 million workers. Among those workers are those critical to the safety of our communities: firefighters, police officers and nurses.

In these hard economic times, workers need all the help they can get to support their families and their homes. Instead of working to create jobs, this administration is working to undermine the jobs that already exist. By taking away overtime pay, they would be removing income that many of these already underpaid workers have come to rely on to make ends meet.

That's why I support the Obey motion to instruct because it will prevent the Department of Labor from issuing any regulations that take away overtime protection from workers who already qualify.

Mr. Speaker, we must show our nation's working families that we support them instead of taking away their hard earned dollars. I urge my colleagues to support the Obey motion to instruct.

Ms. PELOSI. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. All time for debate has expired.

Without objection, the previous question is ordered on the motion to instruct.

There was no objection.

The SPEAKER pro tempore. The question is on the motion to instruct offered by the gentleman from Wisconsin (Mr. OBEY).

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. OBEY. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

Pursuant to clause 8 of rule XX, this 15-minute vote on the motion to instruct on H.R. 2660 will be followed by a 5-minute vote, if ordered, on approving the Journal.

The vote was taken by electronic device, and there were—yeas 221, nays 203, not voting 11, as follows:

[Roll No. 531]

YEAS—221

Abercrombie	Bishop (NY)	Carson (OK)
Ackerman	Blumenauer	Case
Alexander	Boehlert	Clay
Allen	Boswell	Clyburn
Andrews	Boucher	Conyers
Baca	Boyd	Cooper
Baird	Brady (PA)	Costello
Baldwin	Brown (OH)	Cramer
Ballance	Brown, Corrine	Crowley
Becerra	Capito	Cummings
Bell	Capps	Davis (AL)
Berkley	Capuano	Davis (CA)
Berman	Cardin	Davis (FL)
Berry	Cardoza	Davis (IL)
Bishop (GA)	Carson (IN)	Davis (TN)
DeFazio	Larsen (WA)	Quinn
DeGette	Larson (CT)	Rahall
Delahunt	LaTourette	Rangel
DeLauro	Leach	Reyes
Deutsch	Lee	Rodriguez
Dicks	Levin	Ross
Dingell	Lewis (GA)	Rothman
Doggett	Lipinski	Roybal-Allard
Doyle	LoBiondo	Ruppersberger
Edwards	Lofgren	Rush
Emanuel	Lowey	Ryan (OH)
Engel	Lucas (KY)	Sanchez, Linda T.
Etheridge	Lynch	Sanchez, Loretta
Farr	Majette	Sanders
Fattah	Maloney	Sandlin
Ferguson	Markey	Schakowsky
Filner	Marshall	Schiff
Ford	Matheson	Scott (GA)
Frank (MA)	Matsui	Scott (VA)
Frost	McCarthy (MO)	Serrano
Gephardt	McCarthy (NY)	Shays
Gonzalez	McCollum	Sherman
Gordon	McCotter	Skelton
Green (TX)	McDermott	Slaughter
Grijalva	McGovern	Smith (NJ)
Gutierrez	McHugh	Smith (WA)
Harman	McIntyre	Snyder
Hastings (FL)	McNulty	Solis
Hill	Meehan	Spratt
Hinchey	Meek (FL)	Stark
Hinojosa	Meeks (NY)	Strickland
Hoeffel	Menendez	Stupak
Holden	Michaud	Sweeney
Holt	Millender-McDonald	Tanner
Honda	Miller (MI)	Tauscher
Hooley (OR)	Miller (NC)	Taylor (MS)
Hoyer	Miller, George	Thompson (CA)
Inslee	Mollohan	Thompson (MS)
Israel	Moore	Tiahrt
Jackson (IL)	Moran (VA)	Tierney
Jackson-Lee (TX)	Murphy	Towns
Jefferson	Murtha	Turner (TX)
John	Nadler	Udall (CO)
Johnson (IL)	Napolitano	Udall (NM)
Johnson, E. B.	Neal (MA)	Upton
Jones (OH)	Nussle	Van Hollen
Kanjorski	Oberstar	Velazquez
Kaptur	Obey	Visclosky
Kelly	Olver	Waters
Kennedy (RI)	Ortiz	Watson
Kildee	Owens	Watt
Kilpatrick	Pallone	Waxman
Kind	Pascrell	Weiner
King (NY)	Pastor	Wexler
Kleczka	Payne	Woolsey
Kucinich	Pelosi	Wu
Lampson	Peterson (MN)	Wynn
Langevin	Pomeroy	Young (AK)
Lantos	Price (NC)	

NAYS—203

Aderholt	Chocola	Gingrey
Akin	Coble	Goode
Bachus	Cole	Goodlatte
Baker	Collins	Goss
Ballenger	Cox	Granger
Barrett (SC)	Crane	Graves
Bartlett (MD)	Crenshaw	Green (WI)
Barton (TX)	Cubin	Greenwood
Bass	Culberson	Gutknecht
Beauprez	Cunningham	Hall
Bereuter	Davis, Jo Ann	Harris
Biggert	Davis, Tom	Hart
Bilirakis	Deal (GA)	Hastert
Bishop (UT)	DeLay	Hastings (WA)
Blackburn	DeMint	Hayes
Blunt	Diaz-Balart, L.	Hayworth
Boehner	Diaz-Balart, M.	Hefley
Bonilla	Doolittle	Hensarling
Bonner	Duncan	Herger
Bono	Dunn	Hobson
Boozman	Ehlers	Hoekstra
Bradley (NH)	Emerson	Hostettler
Brown (SC)	English	Houghton
Brown-Waite, Ginny	Everett	Hulshof
Burgess	Feeney	Hunter
Burns	Flake	Isakson
Burr	Foley	Istook
Burton (IN)	Forbes	Janklow
Buyer	Fossella	Jenkins
Calvert	Franks (AZ)	Johnson (CT)
Camp	Frelinghuysen	Johnson, Sam
Cannon	Gallegly	Jones (NC)
Cantor	Garrett (NJ)	Keller
Carter	Gerlach	Kennedy (MN)
Castle	Gibbons	King (IA)
Chabot	Gilchrest	Kingston
	Gillmor	Kirk
Kline	Pence	Shimkus
Knollenberg	Peterson (PA)	Shuster
Kolbe	Petri	Simmons
LaHood	Pickering	Simpson
Latham	Pitts	Smith (MI)
Lewis (CA)	Platts	Smith (TX)
Lewis (KY)	Pombo	Souder
Linder	Porter	Stearns
Lucas (OK)	Portman	Stenholm
Manzullo	Pryce (OH)	Sullivan
McCrery	Putnam	Tancredo
McInnis	Radanovich	Tauzin
McKeon	Ramstad	Taylor (NC)
Mica	Regula	Terry
Miller (FL)	Rehberg	Thomas
Miller, Gary	Renzi	Thornberry
Moran (KS)	Reynolds	Tiberi
Musgrave	Rogers (AL)	Toomey
Myrick	Rogers (KY)	Turner (OH)
Nethercutt	Rogers (MI)	Vitter
Neugebauer	Rohrabacher	Walden (OR)
Ney	Ros-Lehtinen	Wamp
Northup	Royce	Weldon (FL)
Norwood	Ryan (WI)	Weldon (PA)
Nunes	Ryun (KS)	Weller
Osborne	Schrock	Whitfield
Ose	Sensenbrenner	Wicker
Otter	Sessions	Wilson (NM)
Oxley	Shadegg	Wilson (SC)
Paul	Shaw	Wolf
Pearce	Sherwood	Young (FL)

NOT VOTING—11

Brady (TX)	Evans	Sabo
Dooley (CA)	Fletcher	Saxton
Dreier	Hyde	Walsh
Eshoo	Issa	

□ 1437

Mr. SOUDER changed his vote from ''yea'' to ''nay.''

So the motion was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

THE JOURNAL

The SPEAKER pro tempore (Mr. PUTNAM). Pursuant to clause 8 of rule XX, the pending business is the question of the Speaker's approval of the Journal of the last day's proceedings.

Pursuant to clause 1, rule 1, the Journal stands approved.

APPOINTMENT OF CONFEREES TO H.R. 2660, DEPARTMENTS OF LABOR, HEALTH AND HUMAN SERVICES, AND EDUCATION, AND RELATED AGENCIES APPROPRIATIONS ACT, 2004

The SPEAKER pro tempore. Without objection, the Chair appoints the following conferees: Messrs. REGULA, ISTOOK, WICKER, Mrs. NORTHUP, Mr. CUNNINGHAM, Ms. GRANGER, Messrs. PETERSON of Pennsylvania, SHERWOOD, WELDON of Florida, SIMPSON, YOUNG of Florida, OBEY, HOYER, Mrs. LOWEY, Ms. DELAURO, Mr. JACKSON of Illinois, Mr. KENNEDY of Rhode Island, and Ms. ROYBAL-ALLARD.

There was no objection.

LEGISLATIVE PROGRAM

(Mr. HOYER asked and was given permission to address the House for 1 minute.)

Mr. HOYER. Mr. Speaker, I rise for the purpose of inquiring of the majority leader the schedule for the coming week.

Mr. DELAY. Mr. Speaker, will the gentleman yield?

Mr. HOYER. I yield to the gentleman from Texas.

Mr. DELAY. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, I would like to make all the Members aware that the House has completed voting for the day and the week. We will take any votes called on the three pending motions to instruct, we will take votes on those next week.

Regarding next week's schedule, the House will convene on Tuesday at 12:30 p.m. for morning hour and 2 p.m. for legislative business. At that time we expect to consider several measures under suspension of the rules, and any votes called on those measures will be called at 6:30 p.m. on that day.

On Wednesday, the House will meet for legislative business at 10 a.m. In addition to potentially considering additional legislation under suspension of the rules, Members should be aware that we may be considering a number of conference reports. These include, but are not limited to, H.R. 1474, Check Clearing for the 21st Century Act; the Fiscal Year 2004 Military Construction Appropriations bill; the Fiscal Year 2004 Department of the Interior Appropriations bill; the Energy and Water Appropriations bill; and potentially the Labor-HHS and Education Appropriations bill.

Finally, I would like to remind all Members that we do not plan to have votes next Thursday, October 9, or Friday, October 10. I thank the gentleman for yielding, and I would be happy to answer any questions he may have.

Mr. HOYER. Mr. Speaker, reclaiming my time, I thank the majority leader. I appreciate the information the gentleman has given us. Essentially, we will be meeting Tuesday night and Wednesday next week.

The gentleman did not mention the Iraq supplemental, I do not believe. I would like to know because, obviously, that is a matter of great concern to every Member of this body and to the American people, when the gentleman expects to consider that supplemental appropriation on the floor. And additionally, can the gentleman assure Members that we are going to have a full consideration and fair process to consider this bill on the floor, a process that will allow a full debate so that Members will have the ability to address all of their concerns? They may well want to support it, but I think the Congress and the American people want to know exactly what we are doing.

I yield to the gentleman.

Mr. DELAY. Mr. Speaker, I appreciate the gentleman yielding. The gentleman from Florida (Chairman YOUNG) of the Committee on Appropriations has informed me that he plans to proceed with regular order. He also plans under that regular order to circulate the supplemental appropriations bill with committee members on Monday. Then he plans to hold a markup next Thursday and, assuming things go according to plan, the bill will lay over the requisite number of days, and we should be able to bring it to the floor the following week, the week of October 13, I believe.

□ 1445

Mr. HOYER. Is it the gentleman's expectation now that the bill as reported from the Committee on Rules to the floor will be subject to amendment?

Mr. DELAY. I anticipate that the bill will come to the floor as most appropriations bills do, and there would be pretty much an open rule. Yes, I would suspect so.

Mr. HOYER. Further conference reports from the Committee on Appropriations. The Majority leader mentioned several conference reports that would come up next week or may come up next week. I would note that neither the Medicare prescription drug legislation nor the child tax credit legislation is on that list, but could Members be told which of those that were listed are most likely to come to the floor? I know we have had them on the list a number of times. Does the gentleman have any greater feel for which bills would be most likely to come to the floor?

I yield to the gentleman.

Mr. DELAY. Mr. Speaker, of those that I listed, the Check Clearing for the 21st Century Act has already been filed, so we know that we will be voting on those. And we have every reason to expect that we have a good possibility of having the military construction and Department of Interior appropriations bills come to the floor. It may be a little more difficult to get Labor HHS to the floor.

As far as Medicare and its conference, the conferees have had formal meetings, meetings with the President, informal meetings in small groups. The conference chairman, the gentleman from California (Mr. THOMAS), is working nonstop to try to reach a final agreement before the end of the first session, which I hope we can conclude by the end of October.

Progress has been made, very good discussions have been held, and the future looks good for actually bringing a conference report on Medicare to the floor.

As far as the child tax credit bill, we are still having problems with the Senate accepting the fact that child tax credits should be a permanent thing and we should not raise taxes on families after a certain period of time. So, until the Senate agrees to that, I think that conference is going to have a very hard time.

Mr. HOYER. Mr. Speaker, reclaiming my time, I understand from those last comments, then, the position still is, if we cannot do it permanently we will not do it temporarily.

Mr. DELAY. Mr. Speaker, if the gentleman will continue to yield. The gentleman from Maryland (Mr. HOYER) is correct. Temporarily means that you cut taxes for a family and then raise them a year or 2 later, and we think that is incredibly unfair. We think people should not be charged for having children by the government, and it ought to be made a permanent thing.

Child tax credits are something that the American family enjoys. They like having more of their hard-earned money to pay for their children rather than for government, and we are standing with the American family.

Mr. HOYER. Reclaiming my time, I understand what the gentleman is saying about standing with the American families, but the American families, at least the 6 and a half million and 12 million children that we talked about and the 200,000 military families, are not getting relief because, as I understand it, they cannot get permanent relief.

I would suggest to the Majority Leader that we passed a major tax bill that expires in 2010. So by its definition, therefore, it was temporary in nature, and, notwithstanding that fact, we passed it. I would urge the majority to apply the same logic to the child tax credit, to those families making less than $26,000 in our society, most in need of help, very frankly, as opposed to those of us who are doing much better and some, of course, doing much, much better than we are doing but we are doing well. So I would urge the gentleman to look at that.

With respect to the Medicare conference, we have heard some information on this side that the President and some of the majority conferees have reached an agreement that there is going to be an effort to reach agreement by October 17 in the conference. Is that information accurate?

Mr. DELAY. Mr. Speaker, the information is accurate in the fact that it is a goal that both the House, the Senate and the President have placed on wrapping up the conference on Medicare. Obviously, this is probably the most complicated issue that we have had to deal with in many a year; and there are many different positions by many different Members, both in the House and Senate. So it is a very complicated issue; it is very difficult. People are working very, very hard to meet that goal. And if God is on our side, maybe we will meet the goal.

Mr. HOYER. I do not want to speculate on which side God is on the Medicare prescription drug bill. I have my own perspective, however, I will tell my colleagues.

The gentleman indicated that there are a number of meetings going on of conferees discussing this. And lamentably I want to tell the leader that the gentleman from Michigan (Mr. DINGELL), the gentleman from New York (Mr. RANGEL), and the gentleman from Arkansas (Mr. BERRY) are not aware of any meetings that have occurred involving, at least, them; and they are conferees. If we are going to be able to pass this legislation, in my opinion, it will be necessary for us to proceed in a bipartisan way.

Could the gentleman comment on the fact that the gentleman from New York (Mr. RANGEL) and the gentleman from Michigan (Mr. DINGELL) and the gentleman from Arkansas (Mr. BERRY) have not been in any of these meetings to which he has referred?

Mr. DELAY. Just any formal meeting of the conference that has been held, the gentlemen he has listed have been invited to those meetings. The other meetings, the informal meetings and group meetings that have been held around the Capitol, the gentleman knows are being held with people that actually want to get a bill.

We are working with those, both Democrats and Republicans, who actually want to get a bill and are serious about negotiating that bill. And it is such a complicated bill. Different parts are being negotiated by different people. The gentleman knows how a conference can work and how difficult it is to hold it together. So to the extent that people want to actually get a bill to the President's desk, they are having great and strong input in the negotiations that are going on.

Mr. HOYER. Reclaiming my time, very seriously I want to tell the gentleman that any implication that the gentleman from Michigan (Mr. DINGELL), who has fought for Medicare and health care legislation longer, harder, than any member on this floor from either party, and whose father preceded him in that fight, is somehow not interested in passing a bill is inaccurate, Mr. Speaker. The gentleman made a mistake if that is his premise. I want to advise him, respectfully, that he is wrong.

I also believe that Mr. BERRY and Mr. RANGEL are extraordinarily interested in passing a bill. Now, their perspective may be different. As far as we know, there have been no conference meetings in the sense of the conferees getting together and discussing differences and trying to iron those differences out in the last 2 months.

Mr. DELAY. There have been formal conference meetings, and the gentlemen that have been outlined have been invited to those meetings.

Mr. HOYER. Mr. Speaker, rather than go back and forth on it at this point in time, I will be glad to ask Mr. DINGELL and Mr. RANGEL when the last meeting was that they were invited to.

Mr. DELAY. Mr. Speaker, I was at the last meeting; and it was last week with the President of the United States.

Mr. HOYER. That was a meeting with the President. I agree with the gentleman. It was not a conference meeting, however. It may have been a meeting with the President.

We hope that we will proceed.

The FAA conference report, we were told that that was going to be on the floor last week and this week. We understood that we would consider it this week. The rule was not brought up. Can the gentleman illuminate for the Members where that bill stands? I know the previous week we could not find the papers, as I recall. This week we understand the papers have been found, but we did not move ahead on that. Can the Majority Leader tell us why we have not proceeded on that and what he perceives to be the future of the FAA reauthorization bill?

Mr. DELAY. I appreciate the gentleman yielding.

As the gentleman knows, and people should take notice, that FAA activities are currently operating under the short-term continuing resolution that we passed last week. In the meantime, Chairman YOUNG and Chairman MICA are working with their Senate counterparts and the committee members on their conference committees to reach the necessary accommodations so that we can have the reauthorization signed into law before this current C.R. expires. So, work is ongoing. As soon as the agreements are made between the House and the Senate, I think we can proceed.

Mr. HOYER. I thank the gentleman for that information because I know we need to move ahead on that authorization. If the gentleman could answer the question, however, we understand there seems to be a disagreement. However, the House passed a provision that directed that there be no privatization of the air traffic controllers. The Senate passed a provision providing that there should be no privatization of air traffic controllers. But we understand there is a difference in the conference on this issue. Can you explain to me, Mr. Leader, when the House took a position on behalf of insuring on the continued public nature of the air traffic controllers and the Senate took the same position, why there might be a difference on that issue?

Mr. DELAY. Well, I have to admit to the gentleman that I am not privy to the intricate negotiations that are going on in this bill. We are leaving that up to the chairmen that are presiding over the conference committees. So I cannot answer the question because I do not know the machinations that have been going on in detail, and I certainly do not want to mislead the House.

Mr. HOYER. I thank the gentleman for his candor on that. Each of us finds ourselves in that position from time to time. I would urge the gentleman, however, because both Houses have taken the same position on that very critical issue, in my opinion, to the security of our Nation, if you might urge the conferees at least to take that item on which apparently the House and Senate both acted in concert off the table, it might facilitate the movement of the conference.

Mr. DELAY. I will certainly advise Chairman YOUNG and Chairman MICA of the gentleman's concern.

Mr. HOYER. Mr. Speaker, I thank the Majority Leader for the information.

REMOVAL OF NAME OF MEMBER AS COSPONSOR OF H.R. 2022

Mr. GEORGE MILLER of California. Mr. Speaker, I ask unanimous consent to have my name removed as a cosponsor of H.R. 2022.

The SPEAKER pro tempore (Mr. PUTNAM). Is there objection to the request of the gentleman from California?

There was no objection.

MOTION TO INSTRUCT CONFEREES ON H.R. 6, ENERGY POLICY ACT OF 2003, OFFERED BY MR. INSLEE

Mr. INSLEE. Mr. Speaker, I offer a motion to instruct conferees.

The Clerk read as follows:

Mr. INSLEE moves that the managers on the part of the House at the conference on the disagreeing votes of the two Houses on the Senate amendment to the bill H.R. 6 be instructed to confine themselves to the matters committed to conference in accordance with clause 9 of rule XXII of the Rules of the House of Representatives with regard to ''high-level radioactive waste'' as defined in the Nuclear Waste Policy Act of 1982 and other provisions of Federal law.

The SPEAKER pro tempore. Pursuant to clause 7 of rule XXII the gentleman from Washington (Mr. INSLEE) and the gentleman from Texas (Mr. BARTON) each will control 30 minutes.

The Chair recognizes the gentleman from Washington (Mr. INSLEE).

Mr. INSLEE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I advise other Members we do not intend to take our entire allotted time. We hope to go through this fairly expeditiously.

This is a motion brought to assure that nothing happens in the conference report that could jeopardize completion of our statutorily-mandated mission for the Department of Energy to complete the cleanup of about 100 million gallons of high-level radioactive waste now at various sites in the United States.

□ 1500

As Members know, we have created by an act of 1982, the obligation to complete a cleanup of those wastes that have been created by the Department of Defense activity, and this does refer to waste that is not commercial but rather through the Department of Defense.

In my State, for instance, there are 53 million gallons at Hanford, at Savannah River, there are several million gallons, in New York State, in Idaho, and we need to complete this cleanup. Unfortunately, for a variety of reasons the concern has been expressed that in the conference committee there could be an attempt to essentially give unfettered discretion to the Department of Energy to reclassify this waste, essentially give it a different name, rather than to complete with the certain rigor and completion of the type of cleanup that is now mandated in Federal law.

We think it is very important to clean up this waste rather than just to rename this waste. So we are bringing this motion to essentially move in that direction in this conference report.

I may note that we consider this a bipartisan effort. Attorneys general from the States of Washington, Oregon, Idaho and South Carolina, both Democrats and Republicans alike, have written to the Department of Defense urging that we work together with the States and the Federal Government to find a technological solution to these last remnants of the 100 million gallons, rather than try to end run through the conference committee.

So we look forward to working on a bipartisan basis. My friend, the gentleman from Washington (Mr. HASTINGS) certainly has knowledge of Hanford and others to work through this, but we want to make sure we do not go through the back door of the conference committee.

Mr. Speaker, I reserve the balance of my time.

Mr. BARTON of Texas. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I would indicate to my friend that there is no back room. We are doing everything in the front room.

Mr. Speaker, I yield such time as he may consume to the gentleman from Washington State (Mr. HASTINGS), from the Committee on Rules.

Mr. HASTINGS of Washington. Mr. Speaker, I appreciate the gentleman yielding me time. I thank the committee for their work on this and taking the position that they have had that they are simply not going to move forward on these delicate issues and extremely important issues with the States that are affected by this without the concurrence of those agencies within those States. I appreciate the gentleman taking that position.

Mr. Speaker, let me say very bluntly, as I can, that the Department of Energy language that was proposed and potentially proposed in this conference report was simply not acceptable to any of the States that were involved. I know they were not acceptable in my case because in the past I have been focused on trying to get these issues resolved with our State Department of Ecology who has jurisdiction in Washington State at Hanford. Because these things will not move forward, the acceleration that we have had success with at all of these sites, will not move forward unless you have the cooperation; and I have been focussed on getting that sort of cooperation enacted.

But I have to state what frustrates me in my case and specifically at Hanford is that I know, genuinely know, at that time Department of Energy and the Department of Ecology want to get this site cleaned up in a safe and timely manner. But I also have to say to be here on the floor and condemn the language that DOE had suggested does not solve this problem, and it will not resolve the long-term disputes that may arise in the future. So I do not consider that. This passed and will pass, of course, unanimously. This is not really a victory for the States. It is not a victory for the DOE.

The reason I say that, once again, Mr. Speaker, is to reemphasize the States, in my case the State of Washington Department of Ecology and DOE have the shared responsibility to resolve these matters and to move forward and keeping the cleanup, the acceleration, timely and safe for the workers at all these sites.

Mr. Speaker, I intend to continue to work on this to try to resolve this because, in my view, the most important thing we can do for our constituents is to make sure that this acceleration and cleanup goes in a timely and safe manner.

Mr. Speaker, I once again want to thank the subcommittee chairman, the gentleman from Texas (Mr. BARTON) and the committee as a whole for their commitment to making sure that any legislation that is offered has the concurrence and the input of the States that are involved.

Mr. BARTON of Texas. Mr. Speaker, I reserve the balance of my time.

Mr. INSLEE. Mr. Speaker, I yield such time as he may consume to the gentleman from South Carolina (Mr. SPRATT).

(Mr. SPRATT asked and was given permission to revise and extend his remarks.)

Mr. SPRATT. Mr. Speaker, I thank the gentleman for yielding me time.

Mr. Speaker, South Carolina is an unenviable host to one of the largest concentrations of military-generated radioactive waste in our country, if not in the world. There are over 37 million gallons of highly-radioactive waste stored in 49 single-lined tanks at the Savannah River site. This waste contains over 400 million curies of radioactivity and represents potentially the single most hazardous threat to the environment and to the people of South Carolina and Georgia, and for that matter, the whole region because it sits atop the Tuscaloosa aquifer.

There are millions more gallons of this kind of waste stored at DOE sites from upper New York State to Washington State.

Over the years, the Department of Energy has worked with these States, my own State of South Carolina, to develop plans to manage the waste by separating out the highly-radioactive contents, transform it into a glass waste solid, suitable for shipment to a national repository for ultimate disposal, and until then, store it on-site in a special interim storage facility. The remaining waste, the residue containing relatively small amounts of radioactivity, is supposed to be mixed with a special sort of concrete and disposed of on-site.

Recently, the Department of Energy proposed to dispose directly of approximately 20 million additional curies of this high-level radioactive waste right there on-site, at the Savannah River site, which is a major change in plans. This amount of waste on-sight will require about 300 years of oversight and maintenance.

The Department of Energy, DOE, however, ran into a problem with this approach. The Nuclear Waste Policy Act requires this type of high-level waste to be disposed of at a national repository. So to implement that proposal, the Department decided simply to reclassify the waste. They would not call it high-level waste anymore.

Well, they ran into another problem. The United States District Court ruled that the DOE order reclassifying this waste violated the statutory law, the Nuclear Waste Policy Act. The four affected States, Idaho, Washington, Oregon and South Carolina, all filed briefs in opposition to DOE's proposal and in effect they prevailed.

South Carolina, along with three other States involved in the district court action, has offered through a joint letter with the other States to the Secretary of Energy to work with the Department of Energy to develop a waste classification strategy that will ensure effective and cost effective and timely disposal of high-level waste in a matter that is consistent with the court decision. We are not trying to hold anybody up. I can assure you that the House Committee on Armed Services, on which I sit, is willing to work with the Department of Energy in next year's authorization process to address this matter in the proper form, with hearings, with questions and with the right kind of legislation.

But instead of engaging in earnest, the Department decided to appeal the district court decision but also to come to Congress with this proposal, to amend the Nuclear Waste Policy Act to allow DOE to determine how much high-level waste it can reclassify and directly dispose of it at several sites, including the Savannah River site. These provisions were not included in either bill, House or Senate. There were no hearings in either committee, House or Senate. This was to be added to the conference report as an out-of-scope provision.

If enacted, this proposal would allow DOE virtual carte blanche to reclassify high-level radioactive waste. This will create lower standards for storing, lower standards for treating, lower standards for processing these radioactive materials, making it all the more likely that some day a dreaded accident will occur, and we will have irreparable harm done to our ground water, our streams, the Tuscaloosa aquifer, affecting not just South Carolina but Georgia and much of the Southeast.

It should not come as any surprise, therefore, that the attorneys general of all four States have vigorously objected in writing to DOE's legislative proposal. In fact, these AGs have called the changes wholly unnecessary.

In conclusion, Mr. Speaker, to change a law as important as the Nuclear Waste Policy Act in this manner, at the 11th hour, without hearings, without a full discussion by all the stakeholders as an out-of-scope provision to a conference report, is inappropriate in this case, and is a precedent that we, as a Congress, should not create for future cases.

So I commend the gentleman from Washington (Mr. INSLEE) for his motion; and I urge every Member of the House on both sides of the aisle to vote to add this instruction to the conferees on the pending bill.

Mr. BARTON of Texas. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I yield to the gentleman from Washington (Mr. HASTINGS) for a question.

Mr. HASTINGS of Washington. Mr. Speaker, I just want to clarify the point, that it is your intent, as the subcommittee chairman and the chairman of the committee, that you will not proceed on this sort of legislation without the concurrence of the States that are affected, which, of course, are South Carolina, Idaho and Washington State.

Mr. BARTON of Texas. Mr. Speaker, that is not only my understanding, that is also the full committee chairman's understanding, and that is the understanding of the chairman of the conference, Senator DOMENICI.

Mr. HASTINGS of Washington. Mr. Speaker, I thank the gentleman for his commitment.

Mr. BARTON of Texas. Mr. Speaker, I yield myself such time as I may consume.

(Mr. BARTON of Texas asked and was given permission to revise and extend his remarks.)

Mr. BARTON of Texas. Mr. Speaker, I will not be long-winded.

Let me simply say, we do not oppose the Inslee amendment on the motion to instruct the conferees. We are prepared to accept it. We think it is an amendment that has merit, obviously, as we have heard from the other gentleman from Washington (Mr. HASTINGS), the gentleman from South Carolina (Mr. SPRATT) who just spoke. These are issues that are serious and that need to be addressed.

We can say that we had no intention to put in any language on this issue in the conference report unless we did have concurrence and agreement of the States and the Department of Energy. It is an issue that we are working on seriously.

It is unlikely that there will be specific language on this issue in the conference report, but certainly, if we consider it, we will work with the gentleman who offered the motion to make sure that the States involved are consulted with.

Let me indicate at the outset that this side is prepared to accept the motion. As the gentleman knows, it is nonbinding.

Let me also inform the gentleman that this issue is not one that either the Chairman of the conference from the other body or I are actively seeking to put into the conference report.

Having said that, DOE's high level waste problem is a complex issue that deserves the attention of the Congress. The Energy and Commerce Committee held a hearing on this issue in the Oversight and Investigations Subcommittee in July. We heard testimony from the States of Washington, Idaho, and South Carolina, where much of DOE's radioactive wastes are located.

At the hearing, the GAO recommended that Congress clarify the high level waste definition, so that DOE can settle on a strategy and move forward with cleanup plans at Hanford, Savannah River, Idaho, and other sites. Due to a recent Federal district court decision, it is uncertain whether DOE can proceed with its cleanup plans at these sites.

It is important that DOE reach agreement with the affected States on the appropriate solution to this matter. Without clarification of DOE's authorities with respect to high level wastes, we may experience cleanup delays as DOE tries to settle this in the courts. DOE has recently estimated that if Congress does not address this matter, we may incur an additional $60 billion in cleanup costs.

The gentleman from Washington should know that following the filing of his motion on Tuesday, we were informed by the Department of Energy that they are in advanced negotiations with affected governors on a solution. So while I have no objection to the motion today, I do want to put the House on notice that if the DOE and the affected States arrive at some kind of agreement, then I do anticipate that the administration will request that we include it in the conference report on H.R. 6. Not having seen the agreement, of course, I can't say with any certainty whether I will recommend honoring that request, but I intend to give it every consideration should it be transmitted.

THE SECRETARY OF ENERGY,
Washington, DC, October 2, 2003.

Hon. BILLY TAUZIN,
Chairman, House Energy and Commerce Committee, Washington, DC.

DEAR MR. CHAIRMAN: In early August, I transmitted to the Congress a legislative proposal designed to assure that the Department of Energy would remain able to exercise its longstanding authority to classify radioactive waste from reprocessing according to the risk it presents to human health and safety. This authority has been cast in doubt by a recent District Court decision. Failure to resolve this uncertainty could result in decades of delay in cleanup and increased risk to public health and safety.

In response to issues raised by stakeholders regarding this proposal, the Department has been in discussions with interested parties concerning revised language. These discussions remain ongoing. Legislation of this nature is a priority for the Department because it is critical to allowing us to proceed with confidence with our plans to accelerate cleanup at the sites where this material is located.

Contrary to some press reports, the Department is not seeking authority to ''reclassify'' high level waste so as to dispose of it anywhere other than at a repository for spent fuel. Rather, to repeat, all we are seeking is confirmation from Congress of our longstanding authority to classify various material from reprocessing according to the risk it presents so that it can be disposed of in a manner appropriate to those risks. Any waste classified as low-level waste would have to meet performance standards for disposal of low-level waste.

Our hope is that if a negotiated solution is reached, it can be included in the H.R. 6 Conference Report.

Sincerely,

SPENCER ABRAHAM.

Mr. Speaker, I reserve the balance of my time.

Mr. INSLEE. Mr. Speaker, I yield such time as she may consume to the gentlewoman from Nevada (Ms. BERKLEY), a great advocate for the State of Nevada.

Ms. BERKLEY. Mr. Speaker, I rise in support of the Inslee motion to instruct conferees.

As everybody in this body knows, the State of Nevada has been unfairly and inappropriately singled out as the Nation's only high-level nuclear waste dump. I am strongly opposed to tens of thousands of tons of radioactive waste being stored in a repository in Yucca Mountain less than 90 miles from Las Vegas, Nevada.

I am also concerned about other DOE actions that could jeopardize the safety of millions of Americans throughout the country.

The DOE is trying to arbitrarily redefine nuclear waste stored in tanks in Washington and South Carolina and Idaho, that have already been classified as high-level, as low-level waste to avoid dealing with the problems it faces in the cleanup and disposal of high-level nuclear waste. Some might claim that DOE's plan would stop more waste from going to Nevada. The truth is that Yucca Mountain is already projected to be full.

As Nevadans know all too well, the DOE never lets the facts stand in the way of its decision making. The residents of Washington and South Carolina and Idaho are now finding out what the people of Nevada have known for years. The Department of Energy makes up the rules as it goes along. If it confronts an obstacle that it is unable to overcome, it simply changes the rules.

Rather than working with the States and local residents and the EPA to find a solution based on sound science, DOE is trying to ramrod through Congress its decision to change the classification. The courts have told the DOE no. The States have told the DOE no. And now the DOE has turned to the Members of Congress in a last-ditch effort to get its way.

Congress should not enable the DOE to reclassify this waste without regard to human health or the environment.

I urge my colleagues to support the Inslee motion to instruct to send a message to the DOE that it must learn to live within the rules and within the law.

□ 1515

Mr. INSLEE. Mr. Speaker, I yield such time as he may consume to the gentleman from Washington (Mr. BAIRD) who represents the third district, which is down river in the Columbia River from the Hanford site.

Mr. BAIRD. Mr. Speaker, I thank my friend from Washington for yielding me the time, and I thank my colleague also from the other side of the Cascade Mountain.

The reason I am concerned about this, since I represent Vancouver, Washington, we call it America's Vancouver, it is on the banks of the Columbia River, and it is down river from Hanford. For years, DOE has assured us that they had the cleanup under control. We have thousands of gallons of liquid waste in unlined single-wall tanks, and we were assured that they would not leak into the aquifer for hundreds of years. In fact, we have discovered already that there is nuclear material in that aquifer and that aquifer connects directly to the Columbia River.

The solution to our problems of disposing of radioactive waste is not to redefine them and say the problem's gone away because we came up with a new definition. That is essentially what the Department of Energy is asking to do, and I applaud my colleague for this motion. I thank the Chair of the committee for rejecting that.

So I am glad we are going to support this, but I would say this is troubling to me that the Department of Energy has even made this request because I think it raises questions about their good faith, that they believe that the solution to cleaning something up is to define that it is already clean and we do not have a problem. I urge the chairman of this committee to insist that such language not be allowed to exist in a final conference report and would urge my fellow colleagues, should that language somehow get in, to reject it strongly.

Mr. INSLEE. Mr. Speaker, I yield myself such time as I may consume.

Just as a closing comment, Mr. Speaker, the one message we hope that comes out of today is that when we have 100 million gallons of material, that if we spread a coffee cup of it on this floor in the House, it would be a lethal dose for everyone here. This is material that our constituents on a bipartisan, bicoastal basis want to make sure gets cleaned up in reality, rather than just in rhetoric; and that is why I think this motion is very important.

I am very appreciative of my friend, the gentleman from Washington (Mr. HASTINGS), and his efforts to work with the Departments and the States to try to hammer out some solution to this. I know he has been personally involved in trying to find that solution. I appreciate his efforts. We appreciate the gentleman from Texas (Mr. BARTON) in accepting this and moving this forward. He has also acted with honor and great wisdom, and I look forward to passage of this.

Mr. Speaker, I reserve the balance of my time.

Mr. BARTON of Texas. Mr. Speaker, I yield myself such time as I may consume.

We will not oppose the motion to instruct the conferees, and we thank the gentleman for offering it and the individuals who spoke in favor of it.

Mr. BLUMENAUER. Mr. Speaker, I support Representative INSLEE's Motion to Instruct Conferees on H.R. 6, the Energy Bill. This motion instructs the conference committee to not add a provision that would allow the Department of Energy to reclassify high-level waste. I oppose the provision because it jeopardizes the health of citizens in Oregon, Washington, South Carolina, and Idaho. Of particular concern to me is radioactive waste stored in Hanford, WA, that has already contaminated ground water near the Columbia River. I believe this is one of the greatest environmental threats we face in the Pacific Northwest.

I also oppose the provision because it circumvents a legal decision made last July by a Federal district judge in Idaho. We should not allow defendants unhappy with a court decision to run to Congress for a quick fix solution. Furthermore, Congress needs to resolve controversial issues through careful consideration and debate. The proposed provision was in neither the House nor Senate bills, and was not subject to debate or vote. Most importantly, Congress did not hold hearings to hear from experts on both sides of this contentious issue.

This issue is too important to play political games. The Department of Energy should focus efforts on being a better partner with States to devise an efficient and effective solution that is agreeable to the people who live and work near the contaminated sites. All four States oppose the provision indicating that the department has not yet found a common ground solution.

Mr. BARTON of Texas. Mr. Speaker, I yield back the balance of our time.

The SPEAKER pro tempore (Mr. PUTNAM). The gentleman from Washington (Mr. INSLEE) is entitled to close. Does he wish to do so?

Mr. INSLEE. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. Without objection, the previous question is ordered on the motion to instruct.

There was no objection.

The SPEAKER pro tempore. The question is on the motion to instruct offered by the gentleman from Washington (Mr. INSLEE).

The motion was agreed to.

A motion to reconsider was laid on the table.

MOTION TO INSTRUCT CONFEREES ON H.R. 1, MEDICARE PRESCRIPTION DRUG AND MODERNIZATION ACT OF 2003

Mr. BISHOP of New York. Mr. Speaker, I offer a motion to instruct.

The SPEAKER pro tempore. The Clerk will report the motion.

The Clerk read as follows:

Mr. BISHOP of New York moves that the managers on the part of the House at the conference on the disagreeing votes of the two Houses on the Senate amendment to the bill H.R. 1 be instructed to reject division B of the House Bill.

The SPEAKER pro tempore. Pursuant to clause 7 of rule XXII, the gentleman from New York (Mr. BISHOP) and the gentleman from Louisiana (Mr. MCCRERY) each will control 30 minutes.

The Chair recognizes the gentleman from New York (Mr. BISHOP).

Mr. BISHOP of New York. Mr. Speaker, I yield myself such time as I may consume.

I rise today to offer a motion to instruct conferees on H.R. 1, the Medicare Prescription Drug and Modernization Act of 2003. In form, this motion instructs conferees to eliminate from the legislation the tax-free savings accounts for medical expenses. These accounts are estimated to cost the Federal Government $174 billion over the next 10 years; and in my opinion, this funding would better serve seniors if it were used to close the enormous gap in coverage that exists in H.R. 1, as it currently is formulated, that leaves seniors without a dependable prescription drug plan.

Health savings security accounts are one of the many provisions in H.R. 1 that I find troubling. The health savings security accounts bill, like so many bills that this House has considered over the past few months, was brought to the floor in the middle of the night, in a last minute fashion, and was rammed through without debate. The bill passed largely along party lines and in the wee hours of the next morning was incorporated into the prescription drug bill through a rule. This Congress never had the opportunity to study such an enormous proposal.

Supporters of the tax-free savings accounts will tell my colleagues that these accounts are valuable tools to cover the uninsured; and clearly, we must prioritize providing health coverage to the greater number of the uninsured, especially since we learned recently that 2.4 million Americans joined the ranks of the now 43.6 million Americans who are uninsured in just the last year alone. However, these savings accounts will do very little to help the uninsured and are the wrong solution for several reasons.

The medical savings accounts are a bad idea because they will cost the States already struggling with deep financial difficulties $20 to $30 billion in revenues over the next 10 years and, as I indicated earlier, will cost the Federal Government $174 billion over the next 10 years. The significant costs associated with these accounts will go towards providing benefits that I believe are merely illusory. These accounts are presented as a device that will help the uninsured. Yet 36 percent of the uninsured have incomes below the poverty

level so they pay little or no income tax. If their incomes are so low that they pay little in the way of income tax, then we cannot reasonably expect them to invest in medical savings accounts.

If the majority of the House feels that this $174 billion is available to us and that we can afford to spend it, then in my opinion there is a much better way for us to invest it.

The prescription drug bill that passed the House has an alarming gap in coverage. Just when seniors reach the point when their drug costs become unbearable and they need help the most, the prescription drug bill leaves them to their own devices. Under the bill that passed, seniors will be forced to pay 100 percent of their drug costs from between $2,000 and $4,900 a year. This gap is so huge that 48 percent of Medicare beneficiaries, almost one-half of seniors, will fall into the gap. And as if this were not enough, seniors with drug costs over $2,000 will continue to be required to pay their monthly premiums, even though they are receiving nothing in return.

I am increasingly discouraged that every time this Congress is faced with a choice of helping out those who need help the most or those who do not, we opt for those who need assistance the least. By eliminating the medical savings account provision from H.R. 1 and applying their $174 billion in savings to close the gap in coverage, we will be doing the right thing by helping those that need it the most. This amount of money will significantly close the coverage gap and will give seniors whose prescription drugs costs are past $2,000 a year great peace of mind. It is patently unfair to leave seniors to fend for themselves as their burden increases.

I urge my colleagues to support this motion and to do the right thing by our seniors by making this drug benefit more reliable. Let us send a strong message in support of seniors by giving them a prescription drug benefit with no gap in coverage.

Mr. Speaker, I reserve the balance of my time.

Mr. MCCRERY. Mr. Speaker, might I inquire of the gentleman from New York (Mr. BISHOP) if he has additional speakers.

Mr. BISHOP of New York. I have about eight additional speakers.

Mr. MCCRERY. Mr. Speaker, as far as I know, I am the only speaker on our side. So I reserve the balance of my time until such time as the gentleman from New York (Mr. BISHOP) has arrived at his last speaker, and I will deliver my remarks at that time.

Mr. BISHOP of New York. Mr. Speaker, I yield 3 minutes to the gentleman from Texas (Mr. SANDLIN).

Mr. SANDLIN. Mr. Speaker, I thank my colleague for yielding me the time.

Mr. Speaker, we have an opportunity today. We have an opportunity to make prescription drugs both available and affordable to our Nation's seniors. We have an opportunity to slam the door shut on the giant Republican-sponsored gap in coverage in their so-called prescription drug bill, aka the HMO Enrichment Act. We have an opportunity today to help people in need, not HMOs in want.

How do we do that? We must close the gap in coverage in prescription drugs that has been invented and advanced by our friends on the other side of the aisle, and we can do that by supporting this instruction.

Mr. Speaker, as my colleagues know, the Republican drug plan provides absolutely no prescription drug coverage at all to our Nation's seniors between the amounts of $2,000 and $5,000; but even though they are receiving absolutely no coverage, they are required to pay a premium each and every month. Who wrote that provision, the HMOs? They expect to get paid a monthly premium every month like clockwork and provide absolutely no benefits to the seniors. That is outrageous, and how, oh, how, Mr. Speaker, can our Republican friends support such an outrageous position and favor the wealthy HMOs over our worthy seniors? How can they take that position?

Mr. Speaker, some on the other side of the aisle say we cannot afford to make prescription drugs available to seniors. It is not that we cannot afford it. Let us be honest. It is that they do not want to do that because, Mr. Speaker, apparently we can afford huge tax cuts to the top 1 percent of American wage earners, but we cannot afford a prescription drug coverage. Apparently, we can afford to allocate $174 billion in tax cuts through the inclusion of HSAs, but we cannot afford prescription drug coverage.

Understand, Mr. Speaker, there is absolutely no requirement that the HSAs pass on savings to the employees. In fact, it is likely that employers will further burden American families by increasing deductibles and shifting costs to the employees; and understand, HSAs will not reduce the record number of uninsured in this country, and HSAs will not make prescription drugs more available for American seniors. It does none of that. In fact, just the opposite is true.

While HSAs will help almost no one in America, if we use those funds, that $174 billion with a B, we could help address the prescription drug needs for everyone in America.

Let us keep our priorities straight in this Congress. Let us do something to benefit all Americans, not just the wealthy. Please join me and America's seniors in supporting this motion to instruct by my fine colleague. We need prescription drugs for all, not just a tax shelter, Mr. Speaker, for the few.

Mr. BISHOP of New York. Mr. Speaker, I yield 5 minutes to the distinguished gentleman from North Dakota (Mr. POMEROY).

(Mr. POMEROY asked and was given permission to revise and extend his remarks, and include extraneous material.)

Mr. POMEROY. Mr. Speaker, I thank the gentleman for yielding me the time.

Let us take a look at the fiscal format of this country as we begin the debate on this measure this afternoon. We have seen revenue reestimate after revenue reestimate, all to the growing despair of those of us who care about running this country on a balanced budget, just like America's families run their financial affairs.

We are now looking at an annual deficit in excess of $500 billion. I know the people I represent in North Dakota are really struggling with this request of the President to send $87 billion to Iraq because they know that when we are $500 billion in debt for this year, that this $87 billion to Iraq is all borrowed money. That all falls on the heads of our children. It is important, I think, with that being the financial framework of our country, as we talk about this debate, that we look closely at what has happened to the staggering escalation in costs to this MSA, medical savings account, provision.

I am a member of the Committee on Ways and Means that considered this legislation. The initial proposal was scored by the Congressional Budget Office at $14.3 billion over 10 years. I will submit this score from the Congressional Budget Office as part of the RECORD in this debate.

When it came before the committee, of course, we had seen the effect of special interests. This had been stretched. It had been inflated. It had grown, and this tax cut at that point in time, the MSA tax cut for the affluent, at that point became a $71.5 billion bill. Because this country was in the red, I opposed this measure in committee. We had not seen anything yet in terms of the ultimate cost of the provision addressed by the gentleman's motion because the very next day there was a rewrite, not one that was accomplished in light of day, in committee of jurisdiction, where we could at least talk about the policy rationale for the further expansion of medical savings accounts; but when this measure came to the floor, many of us were astounded to see that a measure that had been passed out of committee costing $71 billion over 10 years was now slated to cost $174 billion over 10 years.

□ 1530

Somehow, overnight, $100 billion in tax loopholes had been added to this measure. No hearing, no discussion, no committee vote.

So as my friends in North Dakota scratch their heads about the $87 billion Iraq request of the President, they should know that is not the only thing to scratch your head about in Washington: $100 billion added to this MSA tax loophole from committee action to the time of the floor. In contrast to that $87 billion to Iraq, this is going to lose the Treasury $173 billion.

Now, when we look at a $173 billion hit to the revenue of this country, we

ought to think, well, can we afford it? Well, with a $500 billion debt already, I do not think we can afford it. This will be paid for by further driving up the debt of our country. It will be ultimately borne by our children and grandchildren as we leave to them a country so swimming in red ink that it will be hard to figure out how they ever get back to a balanced budget.

Those days of surplus seem so long ago. And the reason we have gone down this terribly steep slope into these incredibly deep deficits is the very shenanigans we see before us. A bill that was $14 billion in cost when it came to the committee came out of committee inflated and stretched to $71 billion. And by the time it came to the floor, a further rewrite, not even in front of the public, not even in front of the committee of jurisdiction, not even with any discussion about the policy underlying the changes, and another $100 billion in tax loopholes is offered, so that now $173 billion in revenue is lost. There is an awful lot that can be done with $103 billion.

As a former State insurance commissioner, I can tell my colleagues that spending this kind of money on medical savings accounts is a very poor investment. Pass this motion, strip this tax windfall out of this provision.

Mr. Speaker, I submit for the RECORD the estimates of the CBO referred to earlier in my remarks:

ESTIMATED REVENUE EFFECTS OF H.R. 2596, THE ''HEALTH SAVINGS AND AFFORDABILITY ACT OF 2003,'' SCHEDULED FOR CONSIDERATION BY THE HOUSE OF REPRESENTATIVES ON JUNE 26, 2003

[Joint Committee on Taxation, 6–26–03, JCX–65–03; fiscal years 2004–13; in millions of dollars]

Provision	Effective	2004	2005	2006	2007	2008	2009	2010	2011	2012	2013	2004–08	2004–13
Health Savings Security Accounts and Health Savings Accounts:													
1. Health savings accounts	tyba 12/31/03	−146	−433	−484	−541	−586	−633	−676	−700	−707	−752	−2,190	−5,658
2. Health savings security accounts	tyba 12/31/03	−628	−4,665	−7,853	−11,155	−14,500	−17,666	−21,041	−24,542	−29,232	−32,165	−38,802	−163,448
Total of Health Savings Security Accounts and Health Savings Accounts		−774	−5,098	−8,337	−11,696	−15,086	−18,299	−21,717	−25,242	−29,939	−32,917	−40,992	−169,106
Disposition of Unused Health Benefits in Cafeteria Plans and Flexible Spending Arrangements	typba 12/31/03	−361	−627	−767	−867	−919	−957	−992	−1,023	−1,055	−1,094	−3,541	−8,662
Exception to Information Reporting Requirements Related to Certain Health Arrangements	pma 12/31/02	−23	−24	−24	−25	−26	−27	−27	−28	−29	−30	−122	−263
Interactions Among Health Provisions		32	146	236	331	418	503	585	653	706	784	1,162	4,392
Net Total		−1,126	−5,603	−8,892	−12,258	−15,614	−18,780	−22,151	−25,640	−30,317	−33,258	−43,493	−173,639

Note: Details may not add to totals due to rounding. Legend for ''Effective'' column: pma = payments made after; tyba = taxable years beginning after.

ESTIMATED REVENUE EFFECTS OF A CHAIRMAN'S AMENDMENT IN THE NATURE OF A SUBSTITUTE TO H.R. 2351, THE ''HEALTH SAVINGS ACCOUNT AVAILABILITY ACT,'' SCHEDULED FOR MARKUP BY THE COMMITTEE ON WAYS AND MEANS ON JUNE 19, 2003

[Joint Committee on Taxation, 6–18–03, JCX–64–03; fiscal years 2004–2013, in millions of dollars]

Provision	Effective	2004	2005	2006	2007	2008	2009	2010	2011	2012	2013	2004–08	2004–13
1. Health Savings Accounts	tyba 12/31/03	−231	−1,785	−3,410	−4,876	−6,371	−7,503	−8,321	−9,271	−10,171	−10,668	−16,673	−62,607
2. Disposition of Unused Health Benefits in Cafeteria Plans and Flexible Spending Arrangements	tyba 12/31/03	−361	−627	−767	−867	−919	−957	−992	−1,023	−1,055	−1,094	−3,542	−8,664
3. Exception to Information Reporting Requirements for Certain Health Arrangements	pma 12/31/02	−23	−24	−24	−25	−26	−27	−27	−28	−29	−30	−122	−263
Net total		−615	−2,436	−4,201	−5,768	−7,316	−8,487	−9,340	−10,322	−11,255	−11,792	−20,337	−71,534

Note: Details may not add to totals due to rounding. Legend for ''Effective'' column: pma = payments made after; tyba = taxable years beginning after.

ESTIMATED REVENUE EFFECTS OF H.R. 2351, THE ''HEALTH SAVINGS ACCOUNT AVAILABILITY ACT,'' SCHEDULED FOR MARKUP BY THE COMMITTEE ON WAYS AND MEANS ON JUNE 19, 2003

[Joint Committee on Taxation; #03–1 174 R, very preliminary, 6–18–03; fiscal years 2004–13; in millions of dollars]

Provision	Effective	2004	2005	2006	2007	2008	2009	2010	2011	2012	2013	2004–08	2004–13
Health Savings Accounts:													
1. Income tax effect	tyba 12/31/03	−136	−405	−453	−507	−550	−594	−635	−655	−659	−702	−2,052	−5,598
2. FICA tax effect	tyba 12/31/03	−10	−28	−31	−34	−36	−39	−42	−44	−47	−50	−138	−360
Total of Health Savings Accounts		−146	−433	−484	−541	−586	−633	−676	−700	−707	−752	−2,190	−5,658
Dispostion of Unused Health Benefits in Cafeteria Plans and Flexible Spending Arrangements:													
1. Income tax relief	tyba 12/31/03	−207	−361	−447	−509	−543	−568	−589	−607	−627	−654	−2,067	−5,113
2. FICA tax effect	tyba 12/31/03	−154	−265	−320	−358	−377	−390	−403	−416	−428	−440	−1,474	−3,551
Total of Disposition of Unused Health Benefits in Cafeteria Plans and Flexible Spending Arrangements		−361	−627	−767	−867	−919	−957	−992	−1,023	−1,055	−1,094	−3,542	−8,664
Net Total		−507	−1,060	−1,252	−1,408	−1,505	−1,590	−1,669	−1,723	−1,762	−1,846	−5,732	−14,322

Note: Details may not add to totals due to rounding. Legend for ''Effective'' column: tyba=taxable years beginning after.

Mr. MCCRERY. Mr. Speaker, I yield myself such time as I may consume.

I would just point out to the gentleman from North Dakota, Mr. Speaker, and to those listening to the debate, that the entirety of the cost of this bill, as noted by the gentleman from North Dakota, is accommodated by the budget that this House voted on earlier this year by a majority vote. Also, we should know that this bill, in its current form, at its current cost, as noted by the gentleman from North Dakota, passed this House with a bipartisan majority, with 15 Members of the minority supporting this bill in its current form.

So while it may be true that the bill changed from the time it was introduced to the time it reached the floor, there is no one that was unaware of the cost when this was voted on by the Members of the House at large, and the amount is accommodated by the budget that we all agreed on earlier this year.

Mr. POMEROY. Mr. Speaker, will the gentleman yield?

Mr. MCCRERY. I yield to the gentleman from North Dakota.

Mr. POMEROY. Mr. Speaker, I thank my friend for yielding to me, someone I respect deeply on the Committee on Ways and Means, the gentleman from Louisiana.

The gentleman notes that the money is fully accommodated for in the House budget. What I want to know is what the relationship of the price tag is relative to the deficit. Now, as I understand it, this $173 billion will deepen the deficit. Is that not the gentleman's understanding?

Mr. MCCRERY. Reclaiming my time, Mr. Speaker, as the gentleman well knows, the budget that was voted on by this House earlier this year, which takes care of all of the priorities of government which we have the duty and the obligation to do, did anticipate a deficit at the Federal level. So any spending that the gentleman wants to point out, whether it is for projects in his district or highways or any other thing, one could say that is going to drive us deeper into deficit.

But I think it is unfair for the gentleman to point out one item that we might pass and agree on and send to the President and say that is all going into the deficit. There are a great many other things we spend money on at the Federal level; and it would be fair to say, I suppose, that any one of those would be deficit spending.

Mr. POMEROY. Mr. Speaker, if the gentleman will continue to yield for one brief question, is the $87 billion for Iraq requested by the President in the budget, or will that drive the deficit figure even deeper?

Mr. MCCRERY. Reclaiming my time once again, Mr. Speaker, as the gentleman knows, the $87 billion is in the form of a supplemental request from the administration, and that is not covered by the budget that we passed earlier this year.

Mr. Speaker, I reserve the balance of my time.

Mr. BISHOP of New York. Mr. Speaker, I yield 3 minutes to the gentlewoman from California (Ms. LINDA T. SÁNCHEZ).

Ms. LINDA T. SANCHEZ of California. Mr. Speaker, I thank the gentleman for yielding me this time, and I rise in support of the Bishop motion to reject the use of $174 billion for health savings accounts included in the Republican prescription drug bill.

On June 26, I, along with many of my colleagues, voted against the Health Savings and Affordability Act, H.R. 2596. It sounds like a great bill, but in reality these health savings accounts are a $174 billion tax cut for the wealthy.

Republicans tell us these accounts will help those without health insurance, but in reality these people have incomes that are far too low to take advantage of the tax breaks in this bill. The truth is they do not have the additional $2,000 to $4,000 a year to put into these savings accounts.

While Americans are struggling daily, this Republican Congress is trying to give more tax cuts for the wealthy, and it is shameful to disguise it by putting it into the Medicare prescription drug bill.

At a time when our country is facing record deficits and so many seniors are struggling with rising drug costs, could $174 billion not be better used? Could it not be used, as the gentleman from New York (Mr. BISHOP) has suggested, to significantly close the gap in coverage found in the current prescription drug bill?

Asking our seniors to pay 100 percent of their drug costs above $2,000 until catastrophic coverage kicks in is simply unacceptable. This gap in coverage is the biggest problem in the prescription drug bill, and it would have a severe impact on millions of low-income Medicare beneficiaries.

That is why, instead of giving more tax cuts to the wealthy, we must help seniors cover their prescription drug costs. That is what seniors want, and that is what our seniors deserve. In fact, according to a survey conducted by AARP, four out of five seniors did not want the Republican plan that ultimately passed this Congress.

Why did seniors oppose this plan? The answer is very simple: because under the current bill, 48 percent, nearly half of all seniors, would fall into the coverage gap and be forced to pay 100 percent of their drug costs. And that is in addition to the $35-per-month premium, in addition to paying the first $250 worth of drugs, and in addition to paying 20 percent of all their drug costs up to $2,000 a year.

The coverage gap is unacceptable. It is no way to treat the seniors in our country. They expect more and they deserve more. Therefore, I urge my colleagues to support the Bishop motion and reject more tax cuts for the wealthy. Give our seniors the respect they deserve and the coverage that they need.

Mr. MCCRERY. Mr. Speaker, I yield myself such time as I may consume.

I would just point out, Mr. Speaker, that while we have had a couple of proponents of the motion to instruct mention that more money should be used for the prescription drug program, this motion to instruct does not direct any of the savings which would be gained from deleting division B of the Medicare bill to prescription drugs or for any other purpose. So while they may use conjecture to think about what they might use this money for, this motion to instruct has nothing to do with that.

Also, Mr. Speaker, I might point out that if this motion to instruct were to redirect that money to the prescription drug program, that would be in violation of the budget agreement that this House passed earlier this year.

Mr. Speaker, I reserve the balance of my time.

Mr. BISHOP of New York. Mr. Speaker, I yield myself such time as I may consume.

I think the point of our contention that the monies saved by eliminating the Health Savings Security Act is that money that does not come into the Treasury is the same as money that comes in and is then spent. If the Treasury can afford to not take in an additional $174 billion, our point is that the $174 billion would be better spent in assisting people who really do need the assistance as opposed to providing comfort and benefit to those who really do not need the assistance.

Mr. Speaker, I yield 5 minutes to the gentlewoman from Illinois (Ms. SCHAKOWSKY).

Ms. SCHAKOWSKY. Mr. Speaker, I thank the gentleman from New York (Mr. BISHOP) for offering this motion and for standing up for senior citizens and persons with disabilities.

We just heard that a motion that would put the money into closing the huge gap in coverage that seniors citizens are going to face if this so-called Medicare prescription drug benefit passes, that it would be somehow a violation of the budget agreement, that, instead, we would rather have some sort of another tax shelter that takes another $74 billion away in lost revenue is typical of the kind of proposals and the solution that have been offered.

Yes, the budget resolution says that we can give huge tax breaks to the wealthiest Americans; and now the way we are going to deal with the prescription drug plan is we are going to allow, again, people who have more money to be able to put it in a tax shelter so that they do not have to pay taxes on it.

What the Democrats are talking about, what the gentleman from New York is talking about is let us look at what the problem is. Senior citizens, persons with disabilities cannot afford the prescription drugs that they need. So if we have $174 billion that we can use, why not just close that gap? That is the choice. The choice is between a $174 billion tax shelter, unavailable to lower-income people, or using $174 billion to try and redirect that so that Medicare beneficiaries get the coverage that they need. It is really as simple as that.

One thing that has not been noted in this $174 billion tax shelter, that is the money lost to the Federal Government, is that it is also going to add about $20 billion to $30 billion in lost revenue to the States, according to the Center on Budget and Policy Priorities. Those lost revenues could further exacerbate the health care problem for low-income people. It might force States to make cutbacks in critical health programs, hurting, once again, the uninsured and the underinsured.

This kind of health savings account, this tax shelter, will also erode on-the-job coverage, because it will encourage employers to replace existing health coverage with high-deductible coverage. And it will especially hurt low-income families who cannot afford to pay those high deductibles, who cannot afford to contribute to a health savings account. What they are designed to do is to provide tax shelters and not to provide affordable coverage for the uninsured.

It is also very important to note, by the way, that the hole that exists in coverage for senior citizens and persons with disabilities for their prescription drugs does not exist in the health plan that is offered to Members of Congress. So if we want to make sure that President Bush is accurate when he tells senior citizens that he wants to give them what we have, what we have in our Federal employee plan, then we have to fill that gap. The hole in coverage right now is big enough so that 48 percent of seniors and persons with disabilities fall right in it.

We also know that nearly half of the Medicare beneficiaries live on less than $18,000 a year. Many of them are low-income women living alone; and for them, a $2,900 coverage gap is an insurmountable barrier to care.

□ 1545

That is what we have got right now. We will have senior citizens going to the pharmacy and saying I want the same medicine as I ordered last month, and the pharmacist will say, Mrs. Jones, that will cost you $75.

What do you mean, I thought I had a prescription drug coverage?

Oh, it has run out for awhile now. You already have used it up. We will not pick it up again until you spend another $2,900. Hello, people cannot afford that, nor can they afford a $174 billion tax shelter that will provide help only to those who really can afford it, not to the millions and millions of seniors who cannot afford their prescription drugs. This is the choice that we have in front of us today. Let us do the right thing and support the Bishop motion to instruct.

Mr. BISHOP of New York. Mr. Speaker, I yield 3 minutes to the gentleman from New Jersey (Mr. PALLONE).

Mr. PALLONE. Mr. Speaker, I want to express my support for the Bishop motion for several reasons. First of all, as the previous speaker mentioned, the biggest problem with the Republican so-called drug benefit, because I do not think it is that at all, is that it is not generous enough. This is a voluntary program. If seniors feel they have to pay more out-of-pocket than they actually are going to gain by paying a premium for this drug benefit, they are not going to opt for it, and it is going to be meaningless. I think that is the problem with the House Republican bill. Even the bill that the other body passed, although better, has the same problem. The benefit is not generous enough, not meaningful enough for the average senior citizen to want it.

If we look at the gap in coverage, the so-called doughnut hole, the House Republican bill leaves beneficiaries 100 percent financially liable for all prescription drug costs between $2,000 and $4,900 in drug spending. So they are going to get some help, I think rather meaningless help, up to $2,000, and then there is the catastrophic above the $4,900; but in between, they are paying 100 percent of the costs. This leaves beneficiaries with a gap of $2,900 where they still must pay premiums, but get absolutely no coverage for their plan.

So they are going to be paying so much a month under the House Republican plan, but after $2,000, they have to pay 100 percent even though they are paying a premium. If they figure out what it is going to cost them out-of-pocket, as opposed to what they are getting, they will not even opt for the drug benefit because it will not be worth its value.

The Bishop motion says rather than leave this gaping doughnut hole, why not eliminate the health savings accounts, which is a totally meaningless proposal which just helps some rich people and use the money that the House Republicans allocate from that, $174 billion over 10 years, to try to fill in at least part of the gap for the doughnut hole so that seniors get something for their value and the drug benefit has some meaning.

According to the Joint Committee on Taxation, the health savings accounts that are included, this bogus proposal included in the House Republican bill, costs $174 billion over 10 years. The health savings accounts provision will undercut employer-provided health care coverage. The benefits are available only if individuals are covered by high-deductible plans, in other words, plans providing no coverage for at least the first thousand dollars of medical expenses. A deductible of that size is approximately double the deductible of most employer plans. So what does it mean?

The provision will encourage employers to reduce coverage for workers and their families by increasing deductibles and shifting even more costs onto employees. The resulting cost savings will be enjoyed by the employer because there is no requirement that those savings be passed onto the employee.

For many American families, the tax benefits are completely worthless. The only thing they would receive from the health savings account provision is reduced health care coverage.

Most American families will not be able to take advantage of the tax shelter in these provisions because they do not have $4,000 per year in additional savings. The health savings account provisions are designed to benefit employers and upper-income management, not rank-and-file employees.

Mr. Speaker, I just want to be clear, the serious limitations of this prescription drug benefit really need to be resolved so there is some benefit. I am just trying to make it perfectly clear. We have a lousy benefit with this huge, gaping doughnut hole. It needs to be filled up in some way so the benefit has some meaning, and the best way to do it is to get rid of this huge boondoggle, $174 billion over 10 years from the health savings accounts, that is not going to help anybody. It is probably going to reduce employer coverage.

For the life of me, I cannot understand, of all of the motions that we have had on this issue, of all of the motions to instruct, this is the easiest for those on the other side to buy because they know when they go home and they talk to their constituents at home, a lot of them are concerned that the coverage in the House bill is meaningless, and they talk about the doughnut hole. If you have a forum, this is what the seniors talk about. Why not take away this lousy provision, the health savings account, which basically is not helping anybody, and use it to make a more generous benefit that maybe in conference, we could convince people on both sides, both in the Senate and the House, to adopt this as part of a conference report and have a meaningful drug benefit.

I would urge my colleagues to support the Bishop motion. I think it makes a lot of sense, and it should be passed on a bipartisan basis.

Mr. MCCRERY. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I have heard several speakers today on the floor say that this is a tax loophole for the wealthy; it is just a way for the wealthy to be able to set aside tax free money because these high-deductible plans are not of use to anybody but the wealthy.

The high-deductible portion of this bill is the health savings account provision. The health savings account provision only accounts, according to the Joint Tax Committee, for $5.5 billion of $173.5 billion tax expenditure proposed by this bill. So it is not the high-deductible HSA, the health savings account, which has been alluded to here today, which accounts for the vast majority of costs under this bill. It is instead the health savings security accounts which eligibility for begins to phase out at $75,000 of income for an individual. I hardly think anyone would call an individual making up to $75,000 a year wealthy, able to take advantage of huge tax loopholes. I wanted to set the record straight on that.

Mr. Speaker, I reserve the balance of my time.

Mr. BISHOP of New York. Mr. Speaker, I yield 3 minutes to the gentleman from Ohio (Mr. BROWN).

Mr. BROWN of Ohio. Mr. Speaker, I thank the gentleman for yielding me this time, and appreciate the good work the gentleman has done on health care in this body.

Mr. Speaker, I rise in support of the Bishop motion. The health savings security account provisions of H.R. 1 are misguided, they are misplaced; and, frankly, they are misnamed, misnamed because health savings accounts do not promote health security, they actually undercut health security. HSAs coupled with high-deductible insurance are a magnet for healthier and better-off individuals, ones who can use the tax break and are not put off by the $1,000 deductible.

When the healthiest individuals leave existing insurance pools to buy high-deductible coverage, premium costs go up for everyone else. It is simple logic. Logic tells us that. So do studies by RAND, by the Urban Institute, and the American Academy of Actuaries. High-deductible health insurance discourages utilization of cost-saving preventive and routine care. It simply does not make sense to promote this type of coverage.

Do we really want to spend $174 billion to inflate the cost of employer-sponsored health insurance and encourage the purchase of outdated, counterintuitive high-deductible health insurance?

The HSA provisions are misguided because the Census Bureau just reported now, since President Bush has taken office, almost 3 million more uninsured people in this country, partly connected to the fact that we have lost 3½ million jobs in the United States

since 2001. But most uninsured individuals will not benefit from the tax preferences built in the HSAs, so this proposal not only will not, but it simply cannot, make a dent in the large pool of uninsured. They are not a serious solution. We should not waste money on them.

These provisions are misplaced because this is a prescription drug coverage bill, not a health insurance coverage bill. If our goal is indeed to expand access to health insurance, then the conferees should be debating the best way to expand access to health insurance, and they are not doing that.

So do we want to get one thing right, or do we want to get two things wrong? Let us get the prescription drug coverage in this bill right, as the Bishop motion does. The drug coverage contained in this bill is woefully inadequate. Seniors with $5,000 in drug expenses under the Republican plan would pay $4,000 out of pocket. Five thousand dollars worth of drug expenses, and the government will only pay $1,000; hardly insurance. The bill's coverage gap forces beneficiaries to pay 100 percent of their costs after the first $2,000 of drugs have been purchased. The coverage does not begin again until drug spending reaches $4,000. That is not really insurance. It makes you wonder if Republicans really think it is a good idea to penalize people for being sick. This huge hole in the coverage, if you are spending between 2 and $4,000, you get no coverage on your drug costs. This motion, the Bishop motion, takes $174 billion allocated for health savings accounts and devotes it to beefing up the prescription drug coverage. The additional funding helps eliminate the hole in that coverage. The Bishop motion makes sense.

Mr. MCCRERY. Mr. Speaker, I yield myself such time as I may consume.

I will point out once again that the motion to instruct before the House today does not in any way devote any funding to the prescription drug benefit. It merely deletes division B from H.R. 1. It does not supplement in any way, by any amount of money, the Medicare prescription drug benefit.

Also, Mr. Speaker, I would like to point out that I am familiar with the RAND study, it is probably the same RAND study cited by the last speaker which showed that yes, when people are spending their own money for health care, there is a reduction in the utilization of health care services. But if Members read on in that same study, it says that there was no significant decline in health outcomes as a result of that. I would submit as we go forward with the baby-boom generation about to retire, we should be looking at the effectiveness of health care expenditures and health care outcomes, and not how much money we can spend on how many health care procedures.

Mr. Speaker, in closing, we have had a good discussion today, I think, about some of the attributes of the health savings accounts and health savings security accounts, and I am not going to give the big long speech which I have prepared here, I will submit that for the RECORD, and I also want to submit for the RECORD a recent article from the New York Times which talks about utilization of services in the health care system.

There has been a lot of talk today about wealthy people and low-income people and access to health care and health insurance and employer-provided health insurance.

Mr. Speaker, the whole idea behind health savings accounts and allowing employers to contribute on behalf of employees to health savings accounts, the whole idea of allowing employees to roll over $500 a year from their flexible spending accounts into a health savings account or health savings security account is to get people coverage for health care. We have too many people in this country today who are either uninsured or underinsured. This bill, which passed the House, is designed to allow some of those people to get insurance.

I am not sure that the Members who spoke today have focused on the advantages of this bill. I think they are trying to find some way to get some money to put into prescription drugs which would not be allowable under the budget agreement that we have.

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But this bill before us that is the subject of the motion to instruct today is designed to get more people in this country insurance.

Yes, they could opt for high-deductible insurance. We think that is a good thing. At least they would have some insurance. By having a high-deductible policy for minor medical expenses, they would be spending their own money. And, yes, as the RAND study shows, they would be more prudent with their health care choices when they are spending their own money. That could help get overall health care costs down. It certainly could help inject into the health care system some market forces that are not there presently.

Mr. Speaker, I think, unfortunately, this motion to instruct is ill-advised. It is not designed to supplement the prescription drug program. It is designed to kill a very worthwhile tax incentive to encourage people in this country to get health insurance, to insure their families for health care expenses, and even if they are lucky enough to be basically healthy for most of their lives, to be able to use their health savings accounts and health security savings accounts to provide long-term care in their old age if they should need it. This is a very good proposal.

Mr. Speaker, the Motion before us is an interesting one. Generally made by a member of the minority party, Motions to Instruct allow this Chamber to go on record with respect to one aspect of a measure pending in conference.

These motions generally tackle a specific piece of a bill and allow the moving party to encourage the House to recede to a Senate-passed provision or to force the House to take a position on a provision or provisions which were not subject to an individual recorded vote during House debate.

That is not the case here. The House has already voted, overwhelmingly, against the position being advocated by my colleague from New York.

While the Motion before us is a new one, the issue is not. The Motion asks the conferees to reject Division B of the House-passed Medicare bill, which, as my colleague from New York has noted, relates to the creation of tax-favored savings accounts to meet current and future health care needs.

Before becoming Division B of H.R. 1, the text in question was a stand-alone bill, H.R. 2596. On June 26 of this year, the House voted to pass that measure by a vote of 237 to 191. I should add that the vote was bipartisan, with 15 Members of the minority supporting the provision.

Under the terms of debate for the bill, as set by the Committee on Rules, H.R. 2596 was appended onto H.R. 1, the Medicare Prescription Drug and Modernization Act of 2003 as Division B.

Mr. Speaker, I have provided this detailed legislative history so that we can all understand that the House is already on record on the issue presented by the Motion to Instruct. Before casting their votes on this Motion, I hope my colleagues will review their vote on the identical issue which occurred on June 26.

Having discussed the legislative history of this provision, let me turn to the substance, which is not less distinguished.

This week, the Census Bureau reported what we all know to be true. There are far too many Americans without health insurance. The economic slow-down, from which we are only now starting to recover, left too many without jobs and has caused some workers to lose employer-sponsored health insurance.

That problem demands bold and innovative thinking. I have long believed that the employer-based system for health insurance, the product of historical happenstance, must be radically restructured if we are to provide affordable health insurance for all Americans. I have worked across party lines to explore this issue and hope those efforts will someday lead to fruition.

Part of the solution lies in taking steps which increase personal responsibility. That is why the provisions creating HSAs and HSSAs are so important.

Mr. Speaker, I will insert in the record an article which ran in the New York Times on September 13, 2003 entitled ''Patients in Florida Lining Up for all That Medicare Covers''.

The article outlines how some seniors, shielded from the true cost of health care services by Medicare and supplemental insurance, have turned visits to doctors from a dreaded necessity into a focal point of their social schedule.

The conclusion, frankly, is not a shocking one. I think we all know that people tend to consume more of things they perceive to be free. To the extent health insurance features low deductibles and minimal cost-sharing, enrollees are more likely to consume health care goods and services which they otherwise might not. This lack of personal responsibility

is at the root of many of our health care cost problems.

Division B of H.R. 1 takes concrete steps to ensure that health care consumers have more responsibility and more influence, in our healthcare system. Thought there are important differences, HSA policies are only available to those individuals who buy higher deductible health insurance. HSSAs will be available to those with more traditional health plans, but they may also be established by those who have no health plan at all, are therefore uninsured and who, I suppose, could be thought of as having an infinite deductible.

By encouraging Americans to shift to higher-deductible health insurance, these accounts address a fundamental problem in health care today—the phenomenon of first-dollar coverage paid for by third-parties.

In his comments, my friend from New York indicated that these accounts will be used by the wealthy as a way to save money tax-free. About that I have several comments.

First, in reviewing this bill, the Joint Tax Committee did estimate that enactment would result in a revenue loss to the Government of about $173 billion over the next decade. The vast majority of that loss came from individuals establishing HSSA accounts. Yet individuals can make tax-deductible contributions to HSSAs only if their incomes are below certain thresholds. Mr. Speaker, HSSA account holders are not the idle rich, looking for a tax shelter. They are the families in this country trying to get by and maybe get ahead a little.

Allowing them to set aside some money on a tax-free basis for health care hardly seems like a tax-shelter. In fact, if the funds in an HSSA are not used for health care, the distribution is generally taxed as ordinary income and subject to an additional 15 percent tax. The 15 percent penalty does not apply if the account holder becomes disabled or withdraws the funds after reaching age 65.

It is true that account balances remaining upon death are included in the decedent's estate. And, if the estate tax repeal is made permanent—as a vast majority of this Chamber supports—it is possible that some of these funds set aside for health care might be used for other purposes.

But that fear is not in my estimation a good reason to reject an improvement to the tax code which will increase personal responsibility and whose benefits flow predominantly to those who otherwise will have the most difficulty meeting their health care needs as they age.

Second, Mr. Speaker, a population today having real difficulty with high health care costs are those who are retired or laid off but not yet eligible for Medicare. Caught in this gap are millions of Americans between the ages of 55 and 65. As account balances in HSSAs may be used to purchase individual health insurance, these accounts could be a real helping hand to those too young for Medicare but not eligible for other employer-sponsored coverage.

Third, if we really want to tackle the issue of ''tax fairness,'' it is not appropriate to look at the creation of HSAs and HSSAs in isolation Let's look at all of the tax subsidies, both hidden and explicit in the tax code and how they operate today.

Consider the fact that in 1999, the Federal Government ''spent'' approximately $100 billion in a hidden tax subsidy for health care, the exclusion from income, and therefore taxes, of the value of employer-sponsored health care. If that exclusion were not in place, meaning employees were taxed on the value of the health benefits provided as if it were ordinary compensation, the federal government would have collected an additional $62 billion in income tax that year and $34 billion in FICA contributions.

Those are large and abstract numbers. Let's break them down and see what they mean to American families. According to the Lewin Group, the tax exclusion provided the average family with a subsidy of $1,155 in 2000. But the benefits were not evenly divided. Families with incomes under $15,000 averaged just $79 in benefits, while families with incomes over $100,000 received an average subsidy of more than $2,600.

Mr. Speaker, those figures are both shocking and disappointing. Encouraging employers to provide bigger and more generous health plans is not the answer.

In addition to the odd distributional effects of the tax exclusion, there is ample evidence that the richest benefit packages are offered by employers with higher-income workers. A 1998 government survey found that only 42 percent of Americans under age 65 with incomes under 250 percent of poverty have insurance through an employer, compared to 83 percent of Americans with incomes above that level.

Part of the reason may be because businesses with low-wage workers are less likely to offer health insurance. A Kaiser Family Foundation report in 2000 found that two-thirds of small businesses offer coverage to their workers. But that number is cut in half for small businesses in which more than 35 percent of the workers make less than $10 per hour.

Part of the reason may also be that when coverage is offered to lower-income workers, it is generally offered on less favorable terms. A Moran Company study in 2000 found the average employees' monthly premium for family coverage was $130 for workers earning less than $7, while the cost for employees earning more than $15 per hour was just $84.

Mr. Speaker, these are depressing statistics. I stand ready to work with any of my colleagues in designing a system which more rationally allocates scarce resources for health care.

In the meantime, however, we must recognize that the uninsured and lower-income families are at a severe disadvantage when it comes to health benefits. I would not stand here and tell you that allowing them to set up tax-favored HSSAs is going to solve all of the distributional problems I mentioned. But surely providing more Americans an opportunity to use pre-tax dollars for health care cannot be a bad thing.

I should also mention two other important provisions in Division B which merit their own discussion.

First, the bill would allow individuals with unused balances in Flexible Spending Accounts to roll-over up to $500 each year. Even worse than insurance plans which make medical care appear free, FSAs have a use-it-or-lose-it feature. As a result, many account holders scramble at the end of each year to exhaust their accounts on marginally beneficial health care services. By allowing account holders to roll-over some unused funds, the provision reduces the very perverse current law incentive encouraging this over-consumption of health care.

Second, the provision contains a clarification of current law which will eliminate a burdensome requirement on FSA plans which use debit cards to make and track account-holders' health care spending.

In May, the Treasury Department and the Internal Revenue Service published a Revenue Ruling providing guidance on the use of debit and stored-value cards used to make payments under FSAs and health reimbursement accounts. Overall, the procedures will make it easier for millions of Americans to use stored-value cards to access the benefits of these accounts.

There is, however, an impediment to the expanded use of these Cards. The Revenue Ruling requires that employers and other plan sponsors issue Form 1099 reports to service providers who accept these Cards. There is little evidence that the requirement will affect the administration of the tax code, but the administrative and paperwork burdens will serve as an impediment to the use of these stored-value cards.

I was pleased that H.R. 2596 included a provision overriding the 1099 requirement. I have since written to Secretary Snow, urging him to issue a new Revenue Ruling removing the 1099 requirement.

Based on conversations with Treasury officials, I am hopeful that this can be addressed without action by the Congress but am concerned that passage of this Motion could signal Treasury that Congress does not care if the 1099 requirement is left in place.

Before concluding, Mr. Speaker, I do want to respond to concerns that the deficit is too large to justify a tax cut of this kind.

I, too, am troubled by the recent projections of significant deficits for the next several years. But, as a share of our national income, those deficits—and more importantly the debt as a percentage of our gross domestic product—remain manageable.

More importantly, to the extent HSAs and HSSAs allow Americans to accumulate funds to pay for health care and encourage them to consume medical services more prudently, we can stem the otherwise unchecked growth in medical inflation which is, in my estimation, the most serious cause of long-term upward pressure on our budget picture.

Finally, Mr. Speaker, let me express my concern about any Motions to Instruct the conferees on H.R. 1. As my colleagues are well aware, the issued surrounding the creation of a Medicare drug benefit are as numerous as they are complex. These discussions will only be brought to a successful conclusion if the conferees are able to creatively address the difference between the two bills.

By artificially seeking to tie the hands of the negotiators this motion makes it less likely, rather than more likely that the conferees will be able to strike the delicate balance necessary to produce a bill acceptable to each Chamber and the President. Accordingly, we should reject this Motion for fear it will make it less likely that a Medicare prescription drug benefit can be enacted this year.

Mr. Speaker, I urge my colleagues to affirm the vote this House took in June and to defeat the Motion to Instruct.

[From the New York Times, Sept. 13, 2003]

PATIENTS IN FLORIDA LINING UP FOR ALL THAT MEDICARE COVERS

(By Gina Kolata)

BOCA RATON, FLA.—It is lunchtime, and the door to Boca Urology's office is locked. But outside, patients are milling about, calling the office on their cellphones, hoping the receptionist will let them in. To say they are eager hardly does them justice.

''We never used to lock the door at lunch, but they came in an hour early,'' said Ellie Fertel, the office manager. ''It's like they're waiting for a concert. Sometimes we forget to lock the door and they come in and sit in the dark.''

Yet few have serious medical problems, let alone emergencies. ''It's the culture,'' said Dr. Jeffrey I. Miller, one of four urologists in the practice.

Doctor visits have become a social activity in this place of palm trees and gated retirement communities. Many patients have 8, 10 or 12 specialists and visit one or more of them most days of the week. They bring their spouses and plan their days around their appointments, going out to eat or shopping while they are in the area. They know what they want; they choose specialists for every body part. And every visit, every procedure is covered by Medicare, the federal health insurance program for the elderly.

Boca Raton, researchers agree, is a case study of what happens when people are given free rein to have all the medical care they could imagine. It is also a cautionary tale, they say—timely as Medicare's fate is debated in Congress—for it demonstrates that what the program covers and does not cover, and how much or how little it pays, determines what goes on in a doctor's office and why it is so hard to control costs.

South Florida has all the ingredients for lavish use of medical services, health care researchers say, with its large population of affluent, educated older people and the doctors to accommodate them. As a result, Dr. Elliott Fisher, a health services researcher at Dartmouth Medical School, said, patients have more office visits, see more specialists and have more diagnostic tests than almost anywhere else in the country. Medicare spends more per person in South Florida than almost anywhere else—twice as much as in Minneapolis, for example.

But there is no apparent medical benefit, Dr. Fisher said, adding, ''In our research, Medicare enrollees in high intensity regions have 2 to 5 percent higher mortality rates than similar patients in the more conservative regions of the country.''

Doctors say that Medicare's policies are guiding medical practice, with many making calculated decisions about whom to treat and how to care for them based on what Medicare covers, and how much it pays.

''The bottom line is that the stuff that reimburses well is easier to get done,'' Dr. Carl Rosenkrantz, a Boca Raton radiologist, said.

Thomas A. Scully, administrator of the Centers for Medicare and Medicaid Services, said he knew the situation all too well.

''We have a system that does nothing to look at utilization,'' Mr. Scully said in a telephone interview. ''If you send in a bill and you are legitimate, we pay it.''

The effect shows up in the way doctors deal with office visits, for example. Medicare in Boca Raton pays $52.46 for a routine visit, in which a doctor sees a patient with no new problem. That is not enough, doctors say; it costs about $1,500 a day to run an office there, they explain. Payments in other states are different, adjusted for cost of living, but doctors say, and Mr. Scully agrees, that they are generally inadequate. Doctors who try to make a living seeing only Medicare patients for routine visits, he said, ''have a very rough time.''

Medicare bases its payments on a system in which each kind of service is assigned a ''relative value,'' Mr. Scully said. To increase the payment for routine office visits and stay within its budget, Medicare would have to decrease the relative value of other services.

A committee of doctors meets each year to suggest relative values, he said, but ''the most aggressive and active groups tend to be the specialists.''

''Year after year,'' Mr. Scully went on, ''the specialists come in and make a very strong argument for higher reimbursements. There's eventually a squeeze on the basic office visit.''

In many areas of the country, private insurers pay more for office visits than Medicare does, so doctors can essentially subsidize their Medicare patients.

''If we just saw Medicare patients and didn't see anyone with regular insurance, we wouldn't be able to pay the bills,'' said Dr. James E. Kurtz, an internist at Chatham Crossing Medical Center in Pittsboro, N.C.

Elsewhere, many doctors are refusing to see Medicare patients. ''Some counties in Washington have no doctors who take new Medicare patients,'' Dr. Douglas Paauw, a professor of medicine at the University of Washington, said.

Doctors in South Florida do not have a choice. Private insurers there pay the same as Medicare or less, and so many old people live in the area that if doctors want to practice, they must accept them. But how to make a living?

One way, Dr. Robert Colton, an internist in Boca Raton, said, is to see lots of patients, spending just a few minutes with each and referring complicated problems to specialists.

Dr. Colton did that for a while, seeing as many as 35 patients a day. A typical busy internist, he said, would see 20 patients a day. ''I felt like a glorified triage nurse,'' he said.

''If you try to handle a complex problem, it slows you down,'' Dr. Colton said. ''You have to sit down with the family, meet with the patients, talk to them. If you say you have coughing and you are short of breath and your knee hurts, I might have sent you to two different specialists.''

The goal, Dr. Rosenkrantz said, is to move the patients on. ''The worst thing than can happen is for someone to walk into your office and say, 'I have an interesting case for you.' Financially, you'd be dead.''

Even seeing patients in the hospital can become an exercise in time management, Dr. Rosenkrantz said. ''We have doctors who do rounds at 4 a.m.''

A second driving force behind medical care in Boca Raton is the demands of patients. They want lots of tests and specialists, they refer themselves to specialists, they ask for and get far more medical attention from specialists than many doctors think is reasonable or advisable.

''This Medicare card is like a gold card that lets you go to any doctor you want,'' Dr. Colton said, ''I see it every day. When there's no control on utilization, it's just the path of least resistance. If a patient says, 'My shoulder hurts, I want an M.R.I., I want to see a shoulder specialist,' the path of least resistance is to send them off. You have nothing to gain by refusing.''

Patients here say they have mixed emotions. They complain about rushed primary care doctors but readily admit that they seek multiple specialists and multiple procedures.

The primary care doctors are often irritatingly busy, patients say. ''In waiting rooms sometimes they are standing against the wall,'' said Marvin Luxenberg, a retired lawyer who lives in nearby Boynton Beach. Then, he said, ''when you get in to see the doctor, you get just three or four minutes of time.''

Dr. Colton says he found a way to give his patients more time. He joined a ''concierge'' practice, in which patients pay an annual fee in addition to the normal charges for medical services. Dr. Colton's group, MDVIP, charges patients $1,500 a year and limits the number of patients each doctor sees.

But not everyone wants to pay that kind of fee. Many patients just spend their time in specialists' offices. Each specialist handles a different aspect of their care, with no one coordinating it.

Specialists get no more than primary care doctors for an office visit, but they provide tests and procedures that demand higher Medicare reimbursements. Doctors say those payments allow them to stay in business, especially if they provide the procedures in their own office.

Medicare pays the doctor and the facility where a procedure is done. For a nuclear stress test, for example, the doctor gets about $200 and the facility gets about $1,200.

''Doctors have incorporated these tests as much as possible into their offices so they can gain from the facility fee,'' Dr. Thomas Bartzokis, an interventional cardiologist in Boca Raton, said. Patients say they have lots of specialists, and lots of tests. Asked how many doctors he saw, Leon Bloomberg, 83, a patient of Dr. Miller, thought for a minute and looked at his wife, Esther.

''Between us, we have 10 or 12,'' Mr. Bloomberg said, including a pain specialist and a neurologist for his neuropathy, a cardiologist for his heart condition, ''a pulmonary man'' for his asthma, a rheumatologist for his arthritis and Dr. Miller for his prostate. Mrs. Bloomberg has her own doctors, including ones for heart disease and for diabetes. ''We have two to four or more doctors' appointment a week,'' Mr. Bloomberg said.

It is easy to find all these specialists, he said. ''You get recommendation at the clubhouse, at the swimming pool. You go to a restaurant here and 9 times out of 10, before the meal is over, you hear people talking about a doctor or a medicine or a surgery.'' And of course there are the other patients in all those waiting rooms. Mr. Bloomberg even recommends specialists to his own doctors.

But some patients say they are frustrated by what they call a waste of resources. ''The doctors are raping Medicare,'' said Louis Ziegler, a retired manufacturer of flight simulators who lives in Delray Beach.

Mr. Ziegler recalled going to a doctor for a chronic problem, a finger that sometimes freezes. All he wanted was a shot of cortisone. But he got more, much more: ''I had diathermy. I had ultrasound. I had a paraffin message. I had $600 worth of Medicare treatment to get my lousy $35 shot of cortisone.''

Dr. Colton, the internist here, is frustrated, too.

''The system is broken,'' he said. ''I'm not being a mean ogre, but when you give something away for free, there is nothing to keep utilization down. And as the doctor, you have nothing to gain by denying them what they want.''

Mr. Speaker, I yield such time as he may consume to the gentleman from California (Mr. THOMAS), the chairman of the Committee on Ways and Means.

Mr. THOMAS. I thank the gentleman for yielding me this time.

Mr. Speaker, I take the floor because I was off doing other business but listening to testimony that has been presented on this floor; and if something

gets repeated often enough and loud enough, people may begin to think that it is true.

In depicting the proposal that has been offered for seniors and prescription drugs, much has been made of the fact that when you have limited dollar amounts and you want to write a program that benefits the greatest number of people, the logical way to write the program is to provide reasonable benefits so that most people who have small drug costs have a decent shared payment structure. In the House plan, that happens to be 80 percent government payment and, 20 percent individual. And for those who, through no fault of their own, have extremely high drug costs, above a certain point, 100 percent of those costs are assumed by the government, or the taxpayers. That is called typically a catastrophic plan.

The question is, how much would it cost to provide sliding coverage throughout an entire range?

Many drug programs are set up where they have a period at which the individual pays the full cost. It has been depicted over and over again and, most recently, just a few minutes ago, that this is a program we are trying to provide to seniors which we do not have as Members of Congress. That is flat-out not true.

If, in fact, Members of Congress can take their insurance from the Federal Employees Health Benefits Program, which is where we get it, if anyone would take the time, instead of preparing demagogic speeches for the floor of the House, and study the Federal Employees Health Benefits Program, they will find there are programs offered to Federal employees that have what is called, in a pejorative way, a doughnut hole. Why? Because it makes sense to build insurance plans at a dollar amount with a doughnut hole.

The program that we have built makes sense. Programs in the private sector do the same. Programs that are offered to Federal employees, including Members of Congress, do the same thing. This is not some unique concept that we have dreamed up. It is a common practice in insurance.

So I fully expect, if this is not done just for show, if someone really did not know, and if in fact they are now pleased to have the facts, I do not expect another Member to take the floor and say we ought to give to seniors what we give to Congress and other members of the Federal Government and that they don't have a doughnut, so we shouldn't have a doughnut for seniors. The fact of the matter is, the Federal Employees Health Benefits Program has plans that are actually chosen by Federal employees that have doughnuts. Why? Because it makes sense. It provides you the maximum minimum payment when your drug costs are low and it provides you the maximum coverage at the top end when your drug costs are high.

But remember what I said, if you are dealing with a fixed cost. The Congress said you have $400 billion to build a prescription drug program in a modernized Medicare. That is a fixed cost. For some people who do not believe the taxpayers' money should be accounted for or you should cater to groups so that you can give people whatever they want regardless of what it costs, I can understand why a sensible program, to give maximum benefits to the greatest number of people, would be a puzzlement. But for people who live on budgets and for people who are cognizant of taxpayers' dollars, building a plan for a given amount that brings the maximum benefits to the greatest number of people makes all kinds of sense. That is why, even in the Federal Employees Health Benefits Program, they have insurance programs that have doughnuts.

I am quite sure now we will never hear another word about saying we are trying to give seniors something that the Federal employees do not have, because it is not true.

Mr. MCCRERY. Mr. Speaker, I yield myself the balance of my time.

Let me thank the gentleman for his remarks that explain very well the rationale for what we think is an excellent prescription drug program that we constructed within the confines of the budget, the $400 billion in the budget.

But, once again, Mr. Speaker, let me point out that the motion to instruct before us has nothing to do with the prescription drug program. It in no way relates to the prescription drug program. It does not allocate a dime of spending, extra spending, to the prescription drug program. All the motion to instruct before us today does is delete from H.R. 1 a very worthwhile tax incentive designed to get more people in this country health insurance coverage for themselves and their families.

Mr. Speaker, I yield back the balance of my time.

Mr. BISHOP of New York. Mr. Speaker, I yield myself the balance of my time.

In closing, let me just say a few things. Chairman THOMAS just made reference to the fact, he talked about the difficulty associated with developing plans and writing legislation when there are limited dollar amounts available. Certainly he is right about that. But I think it is important that we recognize that one of the reasons that we have limited dollar amounts available for this and so many other benefits is that we have been on a tax-cutting frenzy in this Congress in the last several months.

We are now talking about the instant issue, the $174 billion for health savings accounts; $350 billion tax cut over 10 years that we approved in March. We all know that that number is probably an illusion. It is probably going to be closer to $1 trillion over 10 years because we all know that the sunsets really are not going to happen. The estate tax, the permanent elimination of the estate tax of $161 billion, and the, let us say, the overreaction to fixing the child tax credit problem. We have put in place an $82 billion solution to a $9 billion problem.

These tax cuts have two things in common, in my view. One is that they disproportionately favor the well-to-do and second is that they will not do what they purport to do. The health savings accounts purport to help the uninsured become insured and be able to handle their health expenses. It is not going to happen because so many of the uninsured are those who cannot afford insurance and cannot afford these accounts under any circumstance. And the other tax cuts have been designed, we are told, to stimulate the economy and create jobs, yet we continue to lose jobs at an alarming rate in this country.

It seems to me that what we are doing is we are throwing solutions at problems without really knowing whether the solution will work or not.

In the case of the prescription drug package, we do in fact know that if we make the benefit more substantial we will be truly helping people in need and we will be providing a real solution to a real problem.

Ms. JACKSON-LEE of Texas. Mr. Speaker, I rise in support of this motion. The House Republican bill includes $174 billion over 10 years for health savings accounts (HSAs). That money is desperately needed to fill the doughnut hole they put in the seniors' prescription drug coverage.

Not only are HSAs a waste of $174 billion over 10 years, they will also undercut the system of employer provided health care coverage that we have today. The benefits of HSAs are available only if individuals are covered by high deductible plans, i.e., plans providing no coverage for at least the first $1,000 of medical expenses. A deductible of that size is approximately double the deductible of most employer plans.

Therefore, the provisions will encourage employers to reduce coverage for workers and their families by increasing deductibles, and shifting even more costs on to employees. The resulting cost savings will be enjoyed by the employer because there is no requirement that those savings be passed on to the employee.

For many low to moderate income American families, the tax benefits are worthless. The only thing they would receive from the health savings account provisions is reduced health care coverage. The HSA provisions are designed to benefit employers and upper-income management, not the hard working regular employees who are being crushed by today's economy.

Because of gross financial mismanagement and misplaced priorities, we have only $400 billion to spend over the next 10 years on getting seniors and the disabled the prescription drugs they need to live. As we look at the skimpy benefit package the Republicans have put together we have to wonder how we can still afford to spend 100s of billions of dollars on pre-emptive war. But, that is the box they have put us in, and that is what we need to deal with. So, if we only have $400 billion, it is irresponsible to spend $174 billion of it on a tax shelter that will erode the health insurance coverage of those who really need it.

This money would be much better spent improving the drug benefit, getting coverage to the growing number of uninsured, or bringing down our deficit. The Republican bill leaves nearly half of all seniors with no coverage for part of the year, even while they continue to pay premiums. Vote ''yes'' on the Bishop motion to fill that gap in coverage.

Mrs. CHRISTENSEN. Mr. Speaker, I rise in support of the motion to instruct conferees on H.R. 1 offered by my colleague from New York, Mr. BISHOP, and I commend him for offering it.

Medicare, which Republicans fought against at its inception and continue to attempt to undermine today, is an entitlement. It is available equally to everyone over the age of 65 who has paid into the system, and provides the security and peace of mind individuals need and deserve when they are disabled, or have reached retirement.

This motion to instruct the Conference committee would strike the new savings accounts portion of the House bill, and use the $174 million instead to close the gaping hole that 48 percent of Medicare beneficiaries would fall through.

In addition to making good common sense, it also makes good on our promise to seniors to give them a prescription drug benefit. We did not say a half a benefit or three quarters of a benefit, or a ring of a benefit, but a comprehensive benefit.

Additionally, I would further instruct the conferees to ensure that no group, regardless of income, should be left out or be made to pay for inclusion in this program. To do otherwise would further undermine Medicare. Low-income patients, who depend on Medicare's assurance of access to healthcare, must not be kicked off the program and on to Medicaid, especially since this benefit is not fully extended to the American citizens living to the terrorities. To do this would renege on the basic promise of Medicare to all of its eligible seniors and disabled.

In reaching an agreement, I would call the attention of the conferees to the fee-for-service chronic care management provisions especially as included in the House provisions. This is a good provision that would do much to cut the skyrocketing cost of health care to those most at risk for either acute or chronic institutionalization.

Finally I would point out to the conferees and all of my colleagues, that this benefit is not scheduled to take effect until January of 2006. Rather than kill or damage an important safety net program in this time of great uncertainty, let's wait and take the time to do it right.

Although, I fundamentally disagree with the premise and direction of both the House and Senate prescription drug bills, it should be noted that the Republican prescription drug plan does nothing to expand prescription drugs to the million of seniors that are in dire need of such help.

Both bills have a gap in coverage for Medicare beneficiaries, but the Senate bill, unlike the House bill, has no gap in coverage for low-income seniors. Under the House bill, low-income individuals receive no assistance in meeting their drug costs over $2,000 until they have spent $3,500 out of their own pockets on prescription drugs; 41 percent of total income for someone at the federal poverty level.

The House bill provides virtually no low-income assistance for those with incomes over 135 percent of poverty ($12,123 for an individual). The Senate provides substantially assistance for individuals with incomes up to 160 percent of poverty.

The House bill includes an assets that will prevent many low-income people from receiving assistance. The Senate bill allows low-income people who do not meet the assets test to qualify for the same assistance available to those with incomes between 135 and 160 percent of poverty.

No prescription drug program that does not provide comprehensive, low-cost prescription drug coverage to low income senior citizens can meet the needs of our constituents. The special benefits provided the low income under the Senate bill effectively addresses our concerns. However, the principle of universality and nondiscrimination that is central to the Medicare program demands that basic drug coverage be provided through Medicare, as specified in the House bill.

The Senate low-income assistance provisions are far superior to the House provisions, and these assistance provisions are of particular importance to the Nation's African American communities. There are 2,853,000 African American Medicare beneficiaries over age 65. Of these, almost 22 percent or 626,000 individuals are below 100 percent of the Federal Poverty Level ($8,980 for an individual, $12,120 for a couple). Another twenty percent live on incomes between 100 percent and 150 percent of poverty. This compares to a total of 9 percent of Caucasian senior beneficiaries below 100 percent of poverty and another 14 percent of Whites living on incomes between 100 percent and 150 percent of poverty.

As you can see, nearly twice as many African-American Medicare beneficiaries are living in poverty compared to the total Medicare population—and that means the pharmaceutical drug needs of this population are not being met.

For example, low-income Medicare beneficiaries without prescription drug insurance are able to fill only about 20 prescriptions per year, compared to 32 prescriptions per year for those with insurance. By providing better assistance to the low-income, the Senate bill will help fill this 'prescription gap.'

The differences in the low-income provisions of the House and Senate are clear:

House provides deductible and co-pay help only up to 135 percent of poverty ($12,123 per year for an individual);

Senate provides meaningful help up to 160 percent ($14,368 for an individual);

House imposes an asset test as a condition of getting low-income assistance. The asset test means that a low-income person is ineligible for assistance if they own any disposable assets (like U.S. savings bonds) of more than $6,000 for an individual or $9,000 for a couple. This test disqualifies several million low-income beneficiaries from getting any special assistance;

The Senate permits even those who do not meet the asset test to get special assistance in meeting the costs of co-pays and deductibles;

The House does not provide any assistance whatsoever to the low-income when they have $2,000 to $4,900 worth of prescription drug expenses (when they are in the so-called donut hole);

The Senate provides substantial help in meeting 80 percent to 95 percent (depending on exactly how low-income an individual is) of the costs of the ''donut.''

When you combine all these provisions, the impact is dramatic. For example, if a Medicare beneficiary is living on $12,123 a year (135 percent of poverty), and his or her doctor has prescribed $3000 worth of medicines, in the House bill, the beneficiary will owe $1,114 out of pocket (assuming they meet the asset test and have almost no liquid assets). Under the Senate bill, the person will only owe $150. Under this example, an individual who obviously had medical problems and has other out-of-pocket expenses for doctors, tests, etc., would have to spend more than one month's income on prescription drug cost sharing.

Furthermore, I believe that in addressing the low-income provisions, conferees must add language that will allow for full participation of the U.S. territories within the Medicaid program. As you know, the U.S. territories' Medicaid programs are capped and any coverage provision extending aspects of these programs do not translate to the U.S. territories.

Again, to help close the disparities in our society, we ask you to urge the House-Senate conferees to support the Senate low-income assistance provisions. Adopting the Senate's subsidy provisions will make a major improvement in the lives of our nation's most vulnerable Medicare beneficiaries. Mr. Speaker, we need to pass a meaningful prescription drug plan that uses Medicare to make drugs affordable and provides a universal, voluntary benefit for all seniors. I urge my colleagues to support this motion to instruct.

Mr. BISHOP of New York. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. GERLACH). Without objection, the previous question is ordered on the motion to instruct.

There was no objection.

The SPEAKER pro tempore. The question is the motion to instruct offered by the gentleman from New York (Mr. BISHOP).

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. BISHOP of New York. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX, further proceedings on this motion will be postponed.

MOTION TO INSTRUCT CONFEREES ON H.R. 1, MEDICARE PRESCRIPTION DRUG AND MODERNIZATION ACT OF 2003

Mr. FLAKE. Mr. Speaker, I offer a motion to instruct.

The SPEAKER pro tempore. The Clerk will report the motion.

The Clerk read as follows:

Mr. FLAKE of Arizona moves that the managers on the part of the House at the conference on the disagreeing votes of the two Houses on the Senate amendment to the bill H.R. 1 be instructed within the scope of conference to include income thresholds on coverage.

The SPEAKER pro tempore. Pursuant to clause 7 of rule XXII, the gentleman from Arizona (Mr. FLAKE) and

the gentleman from Ohio (Mr. BROWN) each will control 30 minutes.

The Chair recognizes the gentleman from Arizona (Mr. FLAKE).

Mr. FLAKE. Mr. Speaker, I yield myself such time as I may consume.

I rise today to make this motion to instruct the conferees. We are dealing now with a prescription drug benefit to Medicare that is simply uncontrollable in terms of cost. We believe that we ought to control that cost by means-testing the program. There is no reason in the world why we ought to be paying the prescription drug benefits for the wealthiest in society, the Bill Gates, the Barbra Streisands, the Ted Turners, the Warren Buffetts.

Think about this: With this prescription drug benefit that is part of Medicare if this bill passes, we will be paying the prescription drug benefits for the wealthiest in society.

Let me tell you what that means. The current drug bills are estimated to cost $400 billion over the next 10 years. That is $400 billion over the next 10 years to add this prescription drug benefit. If we look beyond that 10-year window into the next 10-year window, then it gets even uglier. From the years 2014 through 2023, that 10-year period after the first 10-year period, the drug benefit is projected to cost $772 billion. So $400 billion the first 10 years, $772 billion the next 10 years. That rapid growth rate will continue all the way through the year 2030.

In fact, what it means in the year 2030, let me just give you a scenario here. Married couple, 40 years old. This strikes home because I am 40 years old myself. This particular couple already pays 15.3 percent in payroll tax to fund current Medicare and Social Security beneficiaries. Because the payroll tax will not provide enough revenue to fund Medicare for all retirees, this couple also faces $39,894 in additional taxes between now and their own retirement in the year 2030.

Think about that. Because we are going to run out of money, because we do not have enough money in the Treasury and in trust fund accounts to fund this, one couple between now and 2030 will have to pay $39,894.

The proposed prescription Medicare drug benefit will make up, of this amount, $16,127. Sixteen thousand extra dollars between now and 2030 will be paid simply to pay this prescription drug benefit, largely because it is an entitlement. It is an entitlement. That means that we give the benefit to everyone.

Entitlements are out of control simply because you set a level for benefits and you say whoever enrolls will get that benefit and they are labeled uncontrollable in terms of what the costs are. We simply cannot control it, because it depends on how many are eligible and what the benefit levels are, and we are setting the benefit levels here, and so we have that kind of cost to look forward to.

When we look back to 1965 when Medicare was created, it was projected to cost $10 billion annually. It is costing $244 billion annually at the moment. That is on a pace to double over the next decade, and then it will expand exponentially beyond that time when the baby boomers start to retire. We simply cannot afford to do what we are proposing to do.

When we look at what we are proposing to do as well, it does not make any sense, given how demographics have played out. Census Bureau figures show that poverty among the elderly has plummeted. In 1959, 35 percent of the elderly lived in poverty compared to just 10 percent today. That is a reversal in relative position of the general population. In 1959, 35 percent of the elderly lived in poverty compared to 25 percent of the general population. In 2001, 10 percent of the elderly lived in poverty compared to 12 percent of the overall U.S. population.

□ 1615

And what this means is that we are shifting a huge financial burden to those who can least afford it, the young, from those who can most afford it at this point, the elderly. That is simply unwarranted.

During the break when I was home, I ran into a gentleman who was in his 80's and he pulled me aside and said, ''I know you are a Member of Congress.'' He said, ''Let me tell you, my wife is ill, and we spend about $600 per month for prescription drug benefits.'' And I thought, oh, no, here it comes. He is going to say get back here and vote for that bill. Instead, he said exactly the opposite. He said, ''We can afford it. Don't you dare saddle that burden on my grandkids.'' And I know there are a lot of people who feel the same way, a lot of people who say there is no way we should saddle this burden on generations to come. It is simply unconscionable.

When I announced my intention to vote against the House version of the bill in its present form, I gave a quote from George Washington after the Constitutional Convention. He simply said, when asked, when he was defending the kind of government that was set up, when it was a different kind of government than the people expected he said, we cannot do what we know is wrong; otherwise, how will we defend our work later? In particular, he said, ''If to please the people, we offer what we ourselves disprove, how can we afterwards defend our work?''

We as, Members of Congress, know the costs. We know the history of Medicare. We know what this new benefit will cost. And unless we means test it, unless we make sure that it is not a benefit for everyone, that it is simply targeted to those who can least afford it now rather than everyone, we know what will happen. We know that we cannot afford it. We know that future generations and ourselves, our own kids are not going to be able to afford the tax burden to sustain it. We know that it will make an already insolvent situation for Medicare insolvent all that much faster. So we simply cannot afford to go on the road we are going. And I think we ought to heed George Washington's word and do what we know is right, regardless of what we think the people want, regardless of what the last poll says, regardless of what we hear at one meeting or this one. We are sent here to do what we know is right, and we know that this will bankrupt us. So we know we have to take a different course, and I would submit that the course we need to take is to means test it.

Mr. Speaker, I reserve the balance of my time.

Mr. BROWN of Ohio. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in opposition to the motion offered by the gentleman from Arizona (Mr. FLAKE). I respect my colleague. I think that he is intellectually consistent and honest, something that we do not see on this floor nearly enough, and I appreciate his thoughts. I do not agree with him, but I think that he is bringing this to the table with the right attitude.

I do hear him say, however, in talking about the gentleman that he spoke about in Arizona that he met, the older gentleman whose wife and he were spending $600 a month on prescriptions and saying he did not want to saddle his grandchildren with debt, I mean this Congress has been all about saddling our grandchildren with debt, with tax cuts, with spending in Iraq, $1 billion a week with no accountability to private contractors, much of that money going to contributors to the President, much of that money going to Halliburton, a corporation which still pays Vice President CHENEY $13,000 a month, and those costs or those expenses are being paid by our grandchildren because that $87 billion this Congress will vote on in the next 2 or 3 weeks is going to be borrowed money.

That being said, I rise in opposition to the Flake motion. If there are Members of Congress who want to rewrite Medicare to make it a welfare program, which the Flake motion does, then let us have that debate. But just as it is wrong to co-opt seniors' need for drug coverage, to turn Medicare into a privatized insurance voucher program, it is wrong to capitalize on the coverage gap to turn Medicare into a means test and welfare program.

Medicare has enjoyed widespread popularity in this country, not only because it provides an essential safety net for America's most vulnerable seniors, although that is certainly a critical mission, it is also popular because it treats every American senior fairly. It is an insurance program that we should not fracture, one that has universal coverage, one that works for everyone, one that virtually everyone in society supports, and one that has worked as well as any Government program in our history over the last 38 years.

Understand that while by most major health indices: life expectancy, rate of vaccination, child mortality, infant mortality, maternal mortality, most measurements of health care, indices in this country, the U.S. does not rank very high compared to other wealthy countries, but on one measurement we rank near the top, and that is life expectancy at 65. If one reaches the age of 65 in the United States, chances are they will live longer than people, on the average, in almost any other country in the world. That is because Medicare treats everyone fairly, whether it is the retired factory custodian of modest means or whether it is the more affluent retiree who actually owns the factory. The Flake motion makes a radical change to this decades' old and very successful universal health care program that we call Medicare. The Flake motion asks the conferees to ensure the final bill includes a means-testing requirement. For the first time since its creation, Medicare would then look at the custodian, the poorest senior, the middle-class senior, the wealthy senior, and the plant owner all differently. All of them have paid into Medicare. The plant owner, frankly, has paid in more over his working lifetime than the custodian has, but under the Flake motion, Medicare offers the wealthy owner less coverage than his former employee. The Flake motion would turn Medicare from a national retirement savings program into a welfare program, undermining the popular support, undermining the universal support that Medicare has enjoyed in this country for 38 years.

A vote for this motion is a vote to weaken the pillar of fairness that supported Medicare for these 3-plus decades. The gentleman from Arizona's (Mr. FLAKE) motion also backs a means-testing plan that would almost certainly cut benefits for middle-class seniors. The House means-testing language would begin benefit cuts at income levels of $60,000. Sixty thousand dollars is hardly a Ken Lay lifestyle, especially in these days of ever-increasing health care costs.

I hear from my constituents week after week after week concerned that the cost of their health care insurance continues to grow with no end in sight. I hear it from seniors. I hear it from young, working families. I hear it from people who are close to retirement. It would seem to them that regardless of their income, regardless of how well they have planned for their health care future, that health care costs are eating up their savings. A Medicare prescription drug benefit that leaves any hard-working American out in the cold should be unacceptable to Members of this Congress. At least my Democratic colleagues and I think it is.

Let me be clear. A vote for the motion from my friend from Arizona is a vote to cut Medicare benefits, ultimately of middle-income Americans. Sixty thousand dollars now; that number could continue to be brought down in the next motion and the next motion and the next motion until public fee-for-service Medicare is only a program for the poorest and the lowest-working income people in this country.

A vote for the Flake motion is also a vote to increase bureaucracy and reduce privacy protections for American seniors. Here is how that works: House language would require Medicare to send a list of beneficiaries to the Internal Revenue Service. The IRS would respond with income information for every senior in Medicare. Medicare would then send that personally identifiable financial information to private health insurers that provide coverage under Medicare. I sure hope we get the do-not-call legislation enacted constitutionally, get it passed a court test if that happens. Surely, our Medicare cost-containment strategy should amount to more than adding paperwork in Medicare, increasing the bureaucracy at IRS and sending seniors' private tax information to HMOs.

The gentleman from Arizona's (Mr. FLAKE) concern, however, about the growing cost of Medicare is justified. The conference negotiations over H.R. 1 offer us an opportunity, an important opportunity, to address that concern by including clear, specific direction for the Government to negotiate with pharmaceutical companies reasonable prices for the medicines American seniors so desperately need.

We all know that growing health insurance costs are being driven by the skyrocketing costs of ever-increasing prescription drug costs. That is the 800-pound gorilla in the health care cost room. The House bill simply ignores it.

If we are really concerned about cost, we should instruct the H.R. 1 conferees to give Medicare real authority to protect seniors and taxpayers from rising drug costs. We are the only country in the world that lets the drug companies charge whatever they want. That is why we pay two times, three times, four times as much as the Canadians and the French and the Germans and the Israelis and the Japanese and the Brits pay. We should not instruct the conferees to cut the benefits of middle-income Americans and erode popular support for Medicare. We should, in this legislation, instruct the conferees to go after the high cost of prescription drugs.

I urge my colleagues to join me in opposing the motion from the gentleman from Arizona (Mr. FLAKE).

Mr. Speaker, I reserve the balance of my time.

Mr. FLAKE. Mr. Speaker, I yield myself such time as I may consume.

Let me say I have never heard so much concern for the rich coming from the other side of the aisle here. I just am overwhelmed with the concern that is over there that people like Arnold Schwarzenegger and others will not be able to afford prescription drugs without Government help.

And if you are concerned about the health of Medicare as a program, do not go with this program as it is outlined without a means test, because this will bankrupt it, and it will all be gone unless we do something to bring down the cost, and the best way is to ensure that it is targeted to those who need it most, not the wealthy who do not need it.

Mr. Speaker, I yield such time as he may consume to the gentleman from Indiana (Mr. PENCE), who has been a leader on this issue.

(Mr. PENCE asked and was given permission to revise and extend his remarks.)

Mr. PENCE. Mr. Speaker, I thank the gentleman for yielding me this time and for his courageous motion.

It is late in the workweek, Mr. Speaker, for us on Capitol Hill, and things tend to get a little blurry for Members of Congress when we put in a full, 3-day week. So I am going to try to unpack this a little bit, as I strongly endorse the motion by the gentleman from Arizona (Mr. FLAKE) which simply structurally affirms the idea of using income thresholds or means testing as a way of controlling costs in the Medicare prescription drug legislation that is currently being considered by a conference committee in the House and Senate.

This is not a radical and new idea, Mr. Speaker. In fact, according to our information, not only was means testing included in the catastrophic elements of the bill that passed the House, but also when the U.S. Senate signaled its support for means testing in June, there was an amendment that was drafted and sponsored by Senators NICKLES and FEINSTEIN. It prevailed on a test vote. Some 59 Senators indicated preliminary support for means testing as a way of controlling the extraordinary cost that we will place on working Americans in the future. Remember, entitlements are paid for by payroll taxes by working Americans. But because Senator TED KENNEDY, in effect, we are told in media outlets, raised the possibility of a filibuster, the amendment was not considered and was withdrawn.

So the idea that the Flake motion considers, Mr. Speaker, and that is brought so respectfully before all the Members of this body, but most especially the hard-working Members of our leadership team, is an idea that had broad support in this Chamber and arguably, by media accounts, in the Senate.

□ 1630

And I must tell my colleagues, I have great respect for the gentleman from Ohio. His passion and his eloquence on this floor is always memorable. But rather than reflecting on the remarks he just made, I would rather reflect on the motion that was debated in the hour prior to this one, which, as I sat on the back row of the Chamber, Mr. Speaker, was all about how the Medicare prescription drug benefit was too small, it did not spend enough, the

Democrat motion to instruct conferees argued, in sum. And I submit to my colleagues that the debate we heard last hour is a preview of the debate that will follow on the floor of this Congress every year if we create a universal drug benefit, a new entitlement in Medicare, a one-size-fits-all prescription drug benefit. It will, as we hear in every other entitlement, Mr. Speaker, it will simply be one other subject that our friends on the other side of the aisle will come into this Chamber and argue is insufficiently funded, and it will grow and it will grow and it will grow.

I believe in my own mind that the opposition by some to means testing here is because they know that if we create a prescription drug benefit that is based on the income of Americans, that it is, therefore, by definition not an entitlement. If we say that the person who owns the limousine and the person who drives the limousine are entitled to the same amount from the Federal Government in free prescription drugs every year, we have created an entitlement. If we create a difference there, we simply create a manageable government benefit. The Flake motion contemplates that, and I endorse it strongly; and the marketplace in need here also endorses it strongly.

I have to tell my colleagues, I do about 50 town hall meetings a year in my district; and I have become persuaded, Mr. Speaker, that there are seniors who struggle, in some cases, in heart-wrenching manners with the cost of prescription drugs. Statistics show us that nearly 24 percent of seniors have no access to drug coverage, and approximately 5 percent of seniors have out-of-pocket prescription costs of more than $4,000 per year. I would, as conservative as I am, and I would dare say even many of my colleagues would, be prepared to support the kind of program that President Bush called for to begin with: a program, we will call it Plan B, which would focus resources at the point of the need and leave the prescription drug coverage that 76 percent of Americans already enjoy untouched.

The reasons for this include the fiscal realities that the gentleman from Arizona (Mr. FLAKE) cited: the initial 10-year cost projected at $400 billion a year, from 214 to 223, though the numbers go up to a projected $772 billion, adding $2.6 trillion indebtedness to Medicare, a number almost the size of the national debt today. And why is that? It is because, Mr. Speaker, that there are 37 million people today entitled to benefits under Medicare; and by the time my baby boomer generation gets done retiring in the 2020s, there will be over 70 million Americans eligible for benefits in Medicare. Means testing and income-related testing is the only way of defeating the creation of a massive new Federal entitlement. I rise today to endorse it as a principle, as a concept, and as an idea whose time has come.

Nancy-Ann DeParle, President Clinton's Medicare administrator, issued inadvertently a warning about the work that we do here, saying that what Congress had contemplated would be ''the biggest expansion of government health benefits since the Great Society.'' And so it would, unless we bring Republican principles of limited government and fairness to bear on the challenges facing many seniors; unless we create a program built on that principle expressed by Abraham Lincoln when he said that government should ''never do for a man what he could and should do for himself.'' That is simply a principle of limited government, and it is also a principle of fiscal responsibility, and it is the principle underpinning the motion to instruct conferees brought today by the gentleman from Arizona (Mr. FLAKE).

I would submit to my colleagues, Mr. Speaker, that compassionate conservatism is about focusing solutions at the point of the need. Let us help our seniors near the poverty level with urgent and sufficient prescription coverage. Let us bring about reforms in Medicare so it is there for the future, without placing an undue burden on our children and grandchildren; and let us otherwise do no harm to the private sector foundation of the greatest health care system in the world.

For this reason, I strongly support the Flake motion to instruct conferees. I strongly support controlling costs through income thresholds on coverage, means testing, as it has come to be known; and I strongly support that principle for which our party was rewarded the ability to lead this institution, the principles of limited government and fiscal responsibility that I believe would be advanced by maintaining the means testing that was in the House bill; and if I can also offer, Mr. Speaker, expanding that means testing throughout the course of this benefit, so that we can truly focus the resources on those who need it most.

Mr. BROWN of Ohio. Mr. Speaker, I yield 4 minutes to the gentleman from New Jersey (Mr. PALLONE), who is a leader in this institution and in the area of health care.

Mr. PALLONE. Mr. Speaker, I want to thank the gentleman from Indiana (Mr. PENCE) for being honest about what he is trying to accomplish with this motion, but I have to say that his comments were very upsetting to me. Because if we listen carefully to what he said, it was a radical proposal. He said it was not radical, but it was extremely radical for the following reason: he said he does not want Medicare to be an entitlement. He said he wants means testing to extend to the entire Medicare program. And that is what the Republican ideology is all about. They do not want the Medicare program the way it was set forth 40 or 50 years ago when it was first set forth in this House of Representatives as a program that applies to every American senior.

Right now, every American senior gets the same benefits wherever they live, regardless of their income, regardless of their race, or regardless of anything, as long as they are a senior citizen. But if we listen to what the gentleman from Indiana said, what they would like to do through means testing is say that the program will be limited only based on one's income.

Now, in this motion to instruct, they say that seniors who earn more than $60,000 a year, $120,000 for couples, will not have the catastrophic coverage which is above $5,100 in the House bill. But if we listen to what the gentleman said, there would be nothing to stop us; in fact, he probably advocated today to perhaps lower that threshold below $60,000. Maybe next year or next month we will make it 30 or 40, or perhaps we will extend it to other parts of the program. So it would not just be for the catastrophic coverage, but maybe for the drug coverage in general, or maybe for the whole Medicare program.

I, listening to his remarks, would have to conclude that he would not have a problem means testing hospital care or doctors' care, so that if one is making $60,000 or more per year, maybe one would get hospital coverage under Medicare.

Well, that is what this Republican leadership is all about. Let us not forget that the Republicans did not vote for Medicare back in the 1960s when it first began. Let us not forget that many of the leadership, including Speaker Gingrich a few years ago, said that Medicare should wither on the vine, whatever that means; and that is what this motion is all about. They wanted to kill Medicare ultimately. They want to make it so limited that it only applies to a few people.

Now, I heard the argument. One of them was philosophical: well, it is just not right to cover everybody. But then I also heard the fiscal argument, which was, well, we cannot afford it anymore. Why can we not afford it? Well, we can afford it. But the reason they have made it more difficult to afford is because they have implemented all of these tax cuts for the last 2 years on the Republican side with a Republican President, and they are borrowing money from the Medicare trust fund to pay for the debt that has resulted from those tax cuts that have mainly benefited wealthy corporations and wealthy individuals. So they are forcing Medicare to go broke because they are borrowing from it and making the trust fund not have the money that it should have that people have paid into.

Mr. Speaker, I am extremely upset because on the one hand, I appreciate the gentleman from Indiana's honesty and the philosophy and the idealogy that he has laid up here, but on the other hand it is upsetting to me to think that people really feel that way and they want to do this to the Medicare program.

Think about it. In my home State of New Jersey, they say $60,000 is a lot for a person, or whatever the figure is for a couple. Well, $60,000 is still middle

class in New Jersey, and I am very fearful of the domino effect. Well, if we have another tax cut in another 6 months or a year and we borrow more from Medicare and we say we do not have the money, then they will reduce it to $50,000 or maybe $40,000. Well, what happens to the Medicare program? As my colleague from Ohio, the ranking member on our subcommittee, said, at some point, at some point, the Medicare program does not have the political support anymore because fewer and fewer people will be able to take advantage of it. That is what this is all about: killing Medicare. That is what my Republican colleagues are up to.

Mr. FLAKE. Mr. Speaker, I yield myself such time as I may consume to note that our motion to instruct contains no income figures or thresholds at all. The $60,000 figure that is cited is simply part of the Republican base bill that was passed in this House. We are simply establishing the principle of means testing. Now, I would suppose that if that was set at $100,000 or $200,000 or $300,000 or $400,000 or a half a million dollars, the cry from the other side of the aisle would be the same: do not means test it. Do not means test it. We want an entitlement. And that is what we are fighting about here. We simply want to say that we ought to target those who need it most, not spread it out so we bankrupt the system too quickly.

Mr. Speaker, I yield 3 minutes to the gentleman from Iowa (Mr. KING).

Mr. KING of Iowa. Mr. Speaker, I appreciate the remarks of the gentleman from Arizona. What we are really talking about here is means testing versus entitlement. Means testing says, we do not want to tax poor people to put drugs and Medicare into the accounts of Bill Gates. And entitlement means, we are going to do that for everybody so we can level this across all classes of people in America. That is not the American way. We do not do things like that. We are here for the underdog, and that is what means testing does. It protects this system for the poorest among us.

If we listen to some of the discussions about Social Security reform, we will hear, raise the age, lower the benefits, increase the contribution. All of those things are part of what happens if we do not provide for means testing, because then we have to draw it out of the pockets of the working people.

I am from Iowa. In Iowa we pay attention to Medicare. We are last in the Nation in compensation rates where I come from. I represent a district that has 10 of the 12 most senior counties in Iowa, and in Iowa we have the highest percentage of our population over the age of 65. We are extraordinarily sensitive to providing these resources to people who need it.

When I came here to this Congress, I pledged to support a prescription drug Medicare plan that was means tested and also provided for the reform in Medicare so that we could utilize those dollars in the most effective way possible and penalize the producers in this country the minimum amount possible. We do not have that in what is appearing to come together before our conference committee. I rise in support of the Flake motion to instruct for that reason, so that we can promote means testing and impose the idea of this entitlement, which weighs down this system.

So how did we get here? Two years of expectations raised by the Congress that said we are going to do prescription drugs. That brought us to this point. Then we set this number up on the wall that said $400 billion, then began to write prescription drugs-Medicare that hit that $400 million target. Really, the actuaries drove a lot of this policy, and it does not appear to resemble the things that I came here to support.

So I am for reform. There are places in this country where they get more money for Medicare compensation than they need and they use that to buy down insurance premiums in private payers in places in this country where they get substantially less, and Iowa is one of those. We are not addressing quality care or cost effectiveness. In an effective way, our $400 billion plan is about 25 to $27 billion worth of reform, and the balance of it is prescription drugs because it is an entitlement.

Mr. Speaker, I think the Flake motion goes directly to the heart of this, and to carry this philosophy into the conference committee and bring it out and bring it out to the floor with really the right thing for the right philosophy for Americans is the thing that we ought to do.

Mr. BROWN of Ohio. Mr. Speaker, I yield 3 minutes to the gentleman from Texas (Mr. SANDLIN).

□ 1645

Mr. SANDLIN. Mr. Speaker, I rise in opposition to my colleague's motion to instruct conferees to include means testing in H.R. 1. Such an instruction is opposed by America's seniors and would be a horrible mistake for this body.

Let us make no mistake about the nature of the gentleman's motion. It is simply another step along the Republican plan to completely destroy Medicare. It is as simple as that.

Implementing means testing obliterates the fundamental tenet of Medicare as a universal insurance program for everyone in this country. That is the foundation of Medicare. That is what it is. Efforts to means test Medicare destroys that program.

If this provision survives the conference, a provision that was soundly defeated in the United States Senate, our Congress would be the first in history to tax the middle class twice for their benefits. It is important to remember that means testing is not just for wealthy celebrities, as has been discussed. It applies to our Nation's middle class, to people making about $60,000 a year.

In both the House and the Senate drug plans our seniors already have to endure large gaps in coverage, gaps where they get no coverage but they have to pay a premium. Under this provision many of our middle-class seniors will not enjoy catastrophic limit protection until they personally spend $11,000. That is not fair, and it equates to no plan at all.

Further, when we talk about means testing, we cannot forget Medicare financing. Today, every Medicare beneficiary gets the same benefits and pays the same percentage of taxes into the program. This means those with higher incomes have been paying more into Medicare. This means that under this motion the very individuals that Congress wants to deny benefits to have been paying a larger proportion of the funds that sustain Medicare.

Now, on a side note I find it very ironic that the majority, which claims to want to minimize the government's role in our citizen's lives, will be creating a significant new government bureaucracy through means testing, one that will threaten the privacy of our Nation's seniors. After all, in addition to this provision, the Medicare administrator will be sending the IRS the names and incomes of seniors who will then forward this confidential information on to private insurance companies. That is kind of inconsistent, especially with Congress's strict demands on hospitals regarding the privacy provisions of HIPAA.

We do not need to embark on this dangerous path to dismantle Medicare. We do not need to give up the privacy of our seniors. Do not let the IRS send your private financial information to private insurance companies.

We have to respect our seniors. We have to respect our commitment to our Nation's seniors. Our elderly need stability in their health care. They have earned it, and they deserve it.

I urge Members to vote against this motion, protect our seniors, protect their privacy, defeat this motion, and let us focus our efforts on a strong Medicare and on a prescription drug plan that makes drugs available and affordable for all of America's seniors.

Mr. FLAKE. Mr. Speaker, I yield 3 minutes to the gentlewoman from Colorado (Mrs. MUSGRAVE).

Mrs. MUSGRAVE. Mr. Speaker, I admire altruism. I am very impressed when people want to help other individuals. I am very skeptical of altruism when it is funded with other people's money.

When we look at this Medicare prescription drug benefit, I think we ought to think about the young families in our country that are working very hard to make ends meet. Many of them are in their 30s, their 40s. They have young children. They are trying to figure out how they are going to pay for their little guy's glasses, the little boy in the second grade that cannot see

the bulletin board. They are trying to figure out how they are going to have any quality time together because mom is working and dad is working and somebody has got to pick up the kids and somebody has got to buy the groceries. They are frazzled young families. They are trying to do the right thing by their family, but they are also trying to figure out how they are going to pay their taxes and they are going to make ends meet.

When we look at these families and look at families where people are working in their late 50s and early 60s and they do not really have a very good prediction, good future for their retirement and they are working on because they are trying to make ends meet also, maybe we ought to think about those people before we try to figure out how we are going to give a benefit to the wealthy that do not even need it, the wealthy Americans who, God bless them, have been successful.

I am all for people accumulating wealth and enjoying it and being very prosperous, especially when they have made good plans and in the elder years of their lives they are reaping the benefits. But it makes no sense to me to increase the tax burden on our working families to give a benefit to people that have not asked for it that are going to try to figure out how many weeks they are going to spend on their yacht. This does not make sense.

I support the Flake motion. We need to have a means testing. It is common sense. That is how we need to be responsible with the only way government gets its money: from taxing our citizens.

Mr. BROWN of Ohio. Mr. Speaker, I yield 3 minutes and 30 seconds to the gentleman from Michigan (Mr. LEVIN).

(Mr. LEVIN asked and was given permission to revise and extend his remarks.)

Mr. LEVIN. Mr. Speaker, I hope that everyone who was not here today, our colleagues, will read the words in the CONGRESSIONAL RECORD and understand where the two parties are coming from. The gentleman from Arizona (Mr. FLAKE) has made clear that what he wants to do is to make sure that prescription drugs is not an entitlement. So, therefore, he wants to means test for those earning $60,000 and above. We must make clear that the logic is it will be reduced from 60 to 50, to 40. That will erode the Nation of an entitlement, if you are consistent.

So this is not a slippery slope. This is a sure path to destroy the prescription drug benefit as an entitlement. You have made that pretty clear. The logic leads to no conclusion but that. Then if you want to erode prescription drugs as an entitlement, the next logical step is to do the same for Medicare, if you are logical.

Then I am totally confused by the gentlewoman from Colorado (Mrs. MUSGRAVE) who says that we do not want to give this benefit to the wealthy. $50,000, $60,000, $70,000 is wealthy? And I would like to know where the people who have spoken for this motion were with the child credit vote, where we were talking about $15,000, $20,000. My guess is that the gentleman who is in support of this voted against it.

Then I would like to ask, after this discussion about let us not help the very wealthy, how you voted in terms of the estate tax that applies only to a few thousand people a year, to indeed the wealthy, where I think almost by rote all of you supported the elimination of the estate tax.

So this is clear, number one, you want to destroy prescription drugs as an entitlement; and, number two, you are totally inconsistent when you say someone earning $60,000 or $70,000 should not have the full benefit of a prescription drug plan, but then you vote not to give a child credit to people earning between $10,000 and $25,000. Then you vote that the 3,000 or 4,000 very, very wealthy families in this country, very few of them who are farmers, who are in small business, should be able to pass on millions, millions, and millions without paying estate tax.

I hope this discussion will be read by everybody before they vote and understand the meaning of their vote. Destroy prescription drugs as an entitlement and have crocodile tears because the very wealthy would benefit from a prescription drug benefit when all of your other votes show that you do not have that same sensitivity when it comes to the tax structure of the United States of America.

Mr. FLAKE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I want to point out I am a little confused myself in terms of what is rich. On the other side of the aisle, they argued throughout the entire tax debate that the same middle-class individual, $60,000, $70,000, $50,000, are not going to benefit from taxes for the rich? What is rich? We set no standard in this motion to instruct. We simply say that we ought to have a means test. We have not pegged it at $60,000, at $70,000, $200,000, $300,000. We are simply establishing the principle that it should not be an entitlement.

If people are worried about it being a slippery slope, set it at $200,000. By the time that slippery slope ends, someone starting at 65 surely will not be around to collect. But set it somewhere, establish a principle that we should not be paying prescription drug benefits for the Bill Gates of the world.

Mr. Speaker, I yield 3 minutes to the gentleman from Indiana (Mr. PENCE).

(Mr. PENCE asked and was given permission to revise and extend his remarks.)

Mr. PENCE. Mr. Speaker, I want to compliment my colleagues on the other side of the aisle for a vigorous, embracing debate, Mr. Speaker.

Apart from some of the class warfare rhetoric, I want to concede a particular point, that the introduction, as the Flake motion suggests, into the prescription drug benefit of income related standards of means testing is precisely about destroying the creation of a new entitlement. It is precisely that, Mr. Speaker. Because despite the fact that we are hearing our friends on the other side of the aisle speak with great generosity about the middle class and even the upper class today, it will not be any of us in this room, judging from the relative age as I look around this Chamber, who will pay for this entitlement, but it will be people like my 10-year-old daughter, Charlotte.

Sometimes God has a sense of humor, Mr. Speaker. The very day I was called upon to vote to create the largest new entitlement since 1965 was my daughter Charlotte's 10th birthday. I started the morning stuffing a pinata at 6 a.m. for her little-girl birthday party. It was a great day.

And it really was that experience that emboldened me to take the stand that I took in voting against this measure and to take the stand that I take today with Mr. FLAKE in saying that we must, almost regardless of the politics and the demagogic rhetoric that will be foisted on us from many quarters, we must do right by Charlotte. Because it will be Charlotte in 20 years, hopefully married to a good and Godly man, raising my grandchildren, who will be paying two and three times the payroll taxes that we pay today to pay for the benefits that we are on the verge of creating, Mr. Speaker. It is that plain and that simple. And to do that by taxing young Charlotte's family to support benefits to people who could and should provide for themselves, in the words of Abraham Lincoln, is unconscionable.

So, Mr. Speaker, I support the Flake motion.

□ 1700

Mr. BROWN of Ohio. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I thank both my friends from Indiana and from Arizona for their comments. I am just intrigued that people can stand on this floor in the majority party and talk about burdening our children and our grandchildren with debt.

When President Bush took office, we had a surplus, billions of dollars a year, a 10-year surplus well into the several trillion dollars projected. Today, after Republican control of the White House for only 2½ years, Republican control of the House during that time, Republican control of the Senate much of that time, we are talking about trillions and trillions and trillions of dollars in debt. This year alone some $550 billion deficit. And for then my colleagues, not just today but time after time after time, coming to this floor and railing against Democrats for spending, it makes me absolutely incredulous.

My friends on the other side of the aisle are now talking about bringing

forward to this House Chamber a constitutional amendment to balance the budget. In other words, we cannot balance the budget, but we are going to do a constitutional amendment to make us balance the budget.

The fact is, Mr. Speaker, that when they argue costs and debt and burden on our children, they ought to look at the tax cut that they have given to millionaires, $93,000 for the average millionaire in this country, half of my constituents got zero dollars out of that tax cut, but they have given a $93,000 tax cut to the average millionaire.

They have way overspent the budget when it comes to issues such as what they are now doing with Iraq. We spend a billion dollars a week. They want to spend $87 billion next year, probably more than that, that is just what they are telling us now, with little accountability. We do not know where the money is going. The private contractors are getting unbid contracts, they are friends of the President, yet they talk about saddling our grandchildren with debt as if it is Medicare that is saddling our grandchildren with debt.

My friend from Arizona, as I said, I respect him for his candor and his intellectual consistency and honesty, but what this is all about is about privatizing Medicare. They wanted to privatize Social Security. They wanted to privatize the national parks. They want to privatize Medicare. They want to privatize every section of the government that they possibly can.

That is their philosophy. That is fine. But let us not talk about means testing. Let us talk about what their mission is, to turn Medicare over to the insurance companies. That is what Medicare+Choice is about. That is what their argument is about. They can call it means testing. They can call it a lot of things, but ultimately, we know what it is. We know they want to privatize Medicare.

As my friend, the gentleman from New Jersey (Mr. PALLONE) has said, for 35 years it is clear that my friends on the other side of the aisle, for honest intellectual, philosophical reasons have not liked Medicare. In 1965, only 12 Republicans voted for Medicare. Strom Thurmond voted no. Gerald Ford voted no. Bob Dole voted no. And my favorite, Donald Rumsfeld, voted no at the creation of Medicare in 1965.

In 1993, when the Democrats saved Medicare, when its life expectancy was not really very long, Democrats passed, with no Republican votes, legislation to extend the life of Medicare.

In the mid 1990s Speaker Gingrich came forward saying that he wanted Medicare to wither on the vine. He tried to cut Medicare $270 billion to give another tax cut to the wealthiest people in society.

Then Dick Armey, the majority leader of the Republicans, BILL THOMAS, the chairman of the Committee on Ways and Means, they have consistently said how they do not like Medicare. This is about privatizing Medicare. It is not about Bill Gates. It is simply not about means testing. It is about privatizing Medicare, turning it over to the insurance companies and ending Medicare the way that we know it. I urge my colleagues to vote no on the Flake motion.

Mr. FLAKE. Madam Speaker, I yield myself such time as I may consume.

Madam Speaker, I thank those who have participated in this debate. I want all Americans to know that tonight they will all get a big raise. It seems that tomorrow that those on the other side of the aisle will come back and talk about how those who are earning $60,000 who are decidedly middle class when it refers to this bill, will be rich when it comes to talking about tax cuts. Which is it? Which is it?

I want to remind my colleagues here, again, that this motion to instruct says nothing about which income levels we ought to set this at. It simply says we ought establish the principle that this be targeted at those who need it the most. And this debate about whether or not we ought to look at the income of older Americans will probably be moot in another 30 years because, as I pointed out before, someone 40 years old today, like me, will spend, like me and my family, will spend about $40,000 in additional taxes, in additional taxes over the next 30 years. We will spend $40,000 in additional taxes because the payroll tax does not provide enough revenue to fund Medicare. This adds fuel to the fire. This simply blows it up out of control.

Now, anybody who has watched my voting record, or the voting record of my colleague from Indiana (Mr. PENCE), knows that we are not proud of our fiscal restraint here in this House, be it Republican or Democrat, over the years. But we ought to look at this program right now. This is what is up for debate. We cannot say, well, Republicans have grown the deficit or Democrats have done this, so it is okay. We are going to take this program, and we are going to blow it up over the next 30 years and even greater beyond that. That is simply not acceptable. We know better than to do that.

If we are spending $40,000 in additional taxes for the average family of four over the next 30 years, we will not have a debate about whether to means test anything in the year 2030 because too few seniors will have enough disposable income to actually fund it. We will all be dependent on Government. Maybe the other side of the aisle would like that, but I do not.

I think people ought to have the ability to save for themselves. There is a difference between tax cuts and benefits like this. Tax cuts, you are taking money that somebody has paid, or will pay, in taxes and saying, You do not have to pay that any more.

This benefit is taking from people who have paid in already, and you are taking that money and saying, We will give it to this person, instead of giving it back to you who earned it.

Madam Speaker, I would conclude and simply urge support for this motion to instruct. Let us do what is right. Let us do what we know is right.

Ms. JACKSON-LEE of Texas. Madam Speaker, I rise to speak out against this motion to instruct conferees to include ''means testing'' of Medicare beneficiaries for prescription drug coverage. Although it looks like a good idea, looks are deceiving. This provision is unfair, will hurt people who deserve help, and will unnecessarily damage the Medicare program.

The idea of means testing is that seniors who earn more than $60,000 a year ($120,000 for couples) will not have the $5,100 stop-loss protection. Instead, they will have to pay more out-of-pocket before they get stop-loss protection because of their income. Therefore, this motion will force middle-income seniors to pay more for their drug coverage.

Means testing is unfair and inappropriate because it will tax middle-class seniors twice for their benefits. Today, the same Medicare benefits are available to all those who are eligible. Everyone pays the same percentage in payroll taxes and gets the same benefits out. It is not a welfare progam. All Americans who contribute taxes during their working years are entitled to the full package of Medicare benefits when they retire.

The House Republicans, however, are taking the first steps to turning Medicare into a welfare program, making middle-class seniors pay more for their Medicare benefits. Under the Republican bill seniors who earn above $60,000 a year will see their catastrophic limit raised from $5,100 to much higher levels based on their income.

This amounts to an additional Medicare tax on middle-class seniors—who already paid more money in Medicare taxes because of their higher earnings in the first place. So after giving massive taxcuts to the richest 1 percent of Americans, the House Republicans want to stick the bill for their mismanagement to senior citizens trying to get the health care they deserved.

Not only is this provision unfair, it probably will create a bureaucratic nightmare that will waste money, and ultimately not work. Because Medicare has no means testing now, there is no staff or system for managing data on seniors' income levels. Same goes for the IRS, where they have no protocol for exchanging private data on senior citizen incomes to the CMS, or to the insurance companies that ultimately are responsible for administering the prescription drug benefits, under the Republican plan.

As I understand it, the Medicare Administrator will need to send the names of seniors to the IRS, and the IRS will send back the seniors' income data for the previous year. Medicare will then send this very private information to private health insurance companies. Seniors' confidential information will be sent all across the country. This is a bureaucratic mess, and may well be illegal.

Not only will this scheme increase federal bureaucracy at the IRS and the CMS, but at private insurance companies as well. They will have different catastrophic levels for every senior above $60,000 in income. Giving the insurance industry income data on seniors and forcing them to create sliding-benefit structures, will also encourage plans to risk select, and pick out the cheaper seniors to be in their plans.

Once private insurance companies have income data on seniors, they can use it to selectively market their products to higher income seniors, who are likely to be healthier and use less health services.

This is a recipe for disaster. It is a step in the wrong direction for the successful and efficient Medicare program, that up until now has served every senior equally well. The approach taken in the Republican bill is wrong. We should not be taxing middle-class seniors twice for their Medicare benefits.

We should eliminate the means testing of catastrophic drug coverage in the House Republican bill. I will vote no on this motion, and urge my colleagues to do the same.

Mr. FLAKE. Madam Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mrs. MILLER of Michigan). Without objection, the previous question is ordered on the motion to instruct.

There was no objection.

The SPEAKER pro tempore. The question is on the motion to instruct offered by the gentleman from Arizona (Mr. FLAKE).

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. BROWN of Ohio. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX, further proceedings on this motion will be postponed.

HOUR OF MEETING ON FRIDAY, OCTOBER 3, 2003

Mr. FLAKE. Madam Speaker, I ask unanimous consent that when the House adjourn today, it adjourn to meet at 10 a.m. tomorrow, Friday, October 3, 2003.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Arizona?

There was no objection.

ADJOURNMENT FROM FRIDAY, OCTOBER 3, 2003 TO TUESDAY, OCTOBER 7, 2003

Mr. FLAKE. Madam Speaker, I ask unanimous consent that when the House adjourns on Friday, October 3, 2003, it adjourn to meet at 12:30 p.m. on Tuesday, October 7, 2003, for morning hour debates.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Arizona?

There was no objection.

DISPENSING WITH CALL OF PRIVATE CALENDAR ON TUESDAY, OCTOBER 7, 2003

Mr. FLAKE. Madam Speaker, I ask unanimous consent that the call of the private calendar be dispensed with on Tuesday, October 7, 2003.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Arizona?

There was no objection.

DISPENSING WITH CALENDAR WEDNESDAY BUSINESS ON WEDNESDAY NEXT

Mr. FLAKE. Madam Speaker, I ask unanimous consent that the business in order under the Calendar Wednesday rule be dispensed with on Wednesday next.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Arizona?

There was no objection.

WASHINGTON INSIDERS' NEW FIRM CONSULTS ON CONTRACTS IN IRAQ

(Mr. MCDERMOTT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MCDERMOTT. Mr. Speaker, as we in the House get ready to rubberstamp another blank check for the President of the United States for $87 billion, I submit for the CONGRESSIONAL RECORD an article from the New York Times dated 30 September by Douglas Jehl. This is an article that talks about the company called New Bridge. The principals are Joe Allbaugh, who was Mr. Bush's campaign manager in 2000; Mr. Ed Rogers and Mr. Lanny Griffith, who were both White House assistants for the older Bush. These people work with Haley Barbour, who is running for the Senate down in the South. These folks have put together a program. Joe Allbaugh was FEMA director. He quit that job and went to work putting together the war-profiteering company they call New Bridge. They are going to go out there, and they are all swarming around. When Bremer was here in town, they had a big party, and they began talking about how they are going to get the contracts from the $87 billion. We are going to fund these war profiteers right out of the White House. They have no shame.

[From the New York Times, Sept. 30, 2003]

WASHINGTON INSIDERS' NEW FIRM CONSULTS ON CONTRACTS IN IRAQ

(By Douglas Jehl)

WASHINGTON, Sept. 29.—A group of businessmen linked by their close ties to President Bush, his family and his administration have set up a consulting firm to advise companies that want to do business in Iraq, including those seeking pieces of taxpayer-financed reconstruction projects.

The firm, New Bridge Strategies, is headed by Joe M. Allbaugh, Mr. Bush's campaign manager in 2000 and the director of the Federal Emergency Management Agency until March. Other directors include Edward M. Rogers Jr., vice chairman, and Lanny Griffith, lobbyists who were assistants to the first President George Bush and now have close ties to the White House.

At a time when the administration seeks Congressional approval for $20.3 billion to rebuild Iraq, part of an $87 billion package for military and other spending in Iraq and Afghanistan, the company's Web site, www.newbridgestrategies.com, says, ''The opportunities evolving in Iraq today are of such an unprecedented nature and scope that no other existing firm has the necessary skills and experience to be effective both in Washington, D.C., and on the ground in Iraq.''

The site calls attention to the links between the company's directors and the two Bush administrations by noting, for example, that Mr. Allbaugh, the chairman, was ''chief of staff to then-Gov. Bush of Texas and was the national campaign manager for the Bush-Cheney 2000 presidential campaign.''

The president of the company, John Howland, said in a telephone interview that it did not intend to seek any United States Government contracts itself, but might be a middleman to advise other companies that seek taxpayer-financed business. The main focus, Mr. Howland said, would be to advise companies that seek opportunities in the private sector in Iraq, including licenses to market products there. The existence of the company was first reported in National Journal, a weekly magazine of Government and politics.

Mr. Howland said the company was not trying to promote its political connections. He said that although Mr. Allbaugh, for example, had spent most of his career ''in the political arena, there's a lot of cross-pollination between that world and the one that exists in Iraq today.''

As part of the administration's postwar work in Iraq, the Government has awarded hundreds of millions of dollars in contracts to American businesses. Those contracts, some without competitive bidding, have included more than $500 million to support troops and extinguish oil field fires for Kellogg, Brown & Root, a subsidiary of Halliburton, which Vice President Dick Cheney led from 1995 until 2000.

Of the $3.9 billion a month that the administration is spending on military operations in Iraq, up to one-third may go to contractors who provide food, housing and other services, some military budget experts said. A spokesman for the Pentagon said today that the military could not provide an estimate of the breakdown.

Administration officials, including L. Paul Bremer III, the top American official in Iraq, have said all future contracts will be issued only as a result of competitive bidding. Already, the Web site for the Coalition Provisional Authority, http://cpa-iraq.org/, lists 36 recent solicitations, including those for contractors who might sell new AK–47 assault rifles, nine-millimeter ammunition and other goods for new army and security forces.

New Bridge Strategies was established in May and recently began full-fledged operations, including opening an office in Iraq, its officials said. They added that a decision by the Governing Council of Iraq to allow foreign companies to establish 100 percent ownership of businesses in Iraq, an unusual arrangement in the Mideast, had added to the attractiveness of the market.

Mr. Howland is a principal of Crest Investment in Houston and was president of American Rice, once a major exporter to Iraq. Richard Burt, ambassador to Germany in the Reagan administration and a former assistant secretary of state, and Lord Powell, a member of the British House of Lords and an important military and foreign-policy adviser to Prime Minister Margaret Thatcher, are among the 10 principals.

Mr. Allbaugh, the chairman, spent most of his career in Texas politics before Mr. Bush appointed him to head the federal disaster agency. Mr. Allbaugh, who now heads his own consulting firm here, did not return calls to his office today.

Mr. Rogers, the vice chairman who was a deputy assistant to the first President Bush and an executive assistant to the White House chief of staff, is also vice chairman of Barbour Griffith & Rogers, one of the best-connected Republican lobbying firms in the capital. Mr. Rogers founded it in 1991 with Haley Barbour, who became chairman of the Republican National Committee and is now running for governor of Mississippi.

Shortly after leaving the White House, Mr. Rogers was publicly rebuked by the first President Bush after he signed a $600,000 contract to represent a Saudi, Sheik Kamal Adham, who was a main figure under scrutiny in a case that involved the Bank of Commerce and Credit International. Mr. Rogers canceled his contract to represent the sheik, former head of Saudi intelligence.

Mr. Griffith, a director of the new company, is chief operating officer of Barbour Griffith & Rogers, which he joined in 1993. He was special assistant for intergovernmental affairs to the first President Bush and later worked under him as an assistant secretary of education.

Until November, Mr. Rogers' wife, Edwina, was associate director of the National Economic Council at the White House. Reached by telephone today, Mr. Rogers said he did not want to speak for the record and referred a reporter to Mr. Howland.

The company Web site says the company was ''created specifically with the aim of assisting clients to evaluate and take advantage of business opportunities in the Middle East following the conclusion of the U.S.-led war in Iraq.''

SPECIAL ORDERS

The SPEAKER pro tempore. Under the Speaker's announced policy of January 7, 2003, and under a previous order of the House, the following Members will be recognized for 5 minutes each.

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Kansas (Mr. MORAN) is recognized for 5 minutes.

(Mr. MORAN of Kansas addressed the House. His remarks will appear hereafter in the Extensions of Remarks.)

QUESTIONS ABOUT THE IRAQI WAR

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Ohio (Mr. BROWN) is recognized for 5 minutes.

Mr. BROWN of Ohio. Madam Speaker, about 160 years ago, Congressman and former President John Quincy Adams came to the House floor night after night, week after week to read letters from constituents, most of them women who did not have the right to vote in those days. He was protesting the decision by the conservative leadership of the House of Representatives, a decision which banned the discussion and debate of slavery on the House floor in those days. Because they had banned the discussion of slavery, Congressman JOHN Quincy Adams thought he should share letters from his constituents with Members of the House, with the American people.

Similarly, because Congress has not debated so many of the issues surrounding Iraq, the question of weapons of mass destruction, the question of some of the things that the administration said that they might have misled the people of the United States, discussions about how the $87 billion is going to be spent that the President has asked for, discussions of the hundreds of millions of dollars every week that we are now spending in Iraq, where there is no accountability for the private, unbid contracts, many of which are going to the President's friends, several of those contracts to the tune of hundreds of millions of dollars going to a company called Halliburton, unbid contracts, hundreds of millions of dollars every month. Halliburton is a company that is paying the Vice President of the United States $13,000 every month, a company where he was CEO.

Madam Speaker, I am going to read some of these letters, as John Quincy Adams did 160 years ago, allowing people in my district to speak about these issues that conservative House leadership will not let us talk about.

Madam Speaker, from Greg from Brunswick, Ohio said, ''The U.S. occupation of Iraq now costs $1 billion a week, as much as the Federal Government spends on after school programs for the entire year. Those are just military costs, not including any money for rebuilding Iraq. No weapons of mass destruction have been found.'' Greg writes, ''Nor have we seen any evidence of an active weapons development program, and there is no exit strategy. The administration has yet to present a realistic plan for how the occupation of Iraq will end.''

Lucy of Copley, Ohio, writes, ''There is more than one issue that must be addressed. I am very concerned that much of the money will be turned over to President Bush's business cronies for lucrative private contracts.'' She is talking about Halliburton and literally the hundreds of millions of dollars of contracts they have gotten, $13,000 every month that goes to the Vice President of the United States from that company.

''I have no absolutely no doubt that this will happen unless Congress puts some constraints on the administration. Please give a great deal of thought into all of the issues before handing Mr. Bush everything he wants, including that blank check.''

Kenneth of Richfield, Ohio, writes, ''I believe the President and his senior administration officials have misled the American people to pursue an agenda which they do not discuss in the election campaign and which is dangerous to world peace.''

Jerlene of North Royalton, Ohio, writes, ''President Bush seems to have had no real plan for what the United States would do in Iraq once we took over that country. Giving him $87 billion is not going to get a feasible plan on the table any faster.'' She talks about how we are paying a billion dollars a week now in Iraq, much of that going to unbid contracts, much of that money unaccounted for, yet, already having spent $70 billion the President is asking for $87 billion more. She cautions us to exercise caution about that money that the President is asking this Congress for.

She also mentions that this money is going to be borrowed from our children and grandchildren because it means more national debt to the United States.

Matthew of Akron, Ohio, writes, ''Too much of taxpayers' money has been squandered on this war already. It is time to hold George Bush accountable. By granting him this request, the American people, through Congress, are doing him a huge favor, and I might add, doing the American people something much less than a big favor.''

All of these letters say, we want to have questions answered. We want the safety of our troops assured. We want to make sure that our troops are supplied better than they have been as these private contractors have squandered billions of taxpayer dollars. We want accountability. We want a plan of reconstruction the American people and the Congress can understand. And we not only want that accountability, we want an exit strategy on how, in fact, when this is going to end, and how this is going to be done.

Madam Speaker, I will continue, as I have since July, to share letters from constituents on issues this Congress will not debate on answering these questions that the American people have of their elected officials.

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Indiana (Mr. BURTON) is recognized for 5 minutes.

(Mr. BURTON of Indiana addressed the House. His remarks will appear hereafter in the Extensions of Remarks.)

FURTHER FUNDING THE WAR IN IRAQ

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New Jersey (Mr. PALLONE) is recognized for 5 minutes.

Mr. PALLONE. Madam Speaker, over the next couple of weeks, we will vote on a huge $87 billion supplemental appropriations bill to further fund the war in Iraq.

Madam Speaker, this is a very serious piece of legislation. It is the largest supplemental appropriations bill in our Nation's history.

□ 1715

While it is critically important that we get our military troops all the resources they need, I do not support rubber-stamping this legislation so this administration gets a free ride from Congress and does not have to account for its strategy in Iraq. Tough questions need to be asked.

Madam Speaker, how could the Bush administration underestimate so badly

the cost of the war? Bush administration officials either dramatically underestimated the costs or were misrepresenting their estimates to Congress before the war. Before being forced out of the Bush administration, Secretary of Treasury Larry Lindsey estimated the cost of the war would be between 100 and $200 billion, but other officials in the administration scoffed at that estimate, saying it would be a lot less. In fact, OMB Director Mitch Daniels estimated the cost at as little as $50 billion.

If we combine the military costs in the first supplemental and the $65 billion included in this latest supplemental, we get $132 billion, $132 billion, much higher than the estimates, obviously, from the Bush administration.

Just one week after the war began, Deputy Secretary of Defense Paul Wolfowitz told the House Committee on Appropriations, Subcommittee on Defense, ''We're dealing with a country that can really finance its own reconstruction, and relatively soon.''

Yet the Bush administration comes to Congress requesting $20 billion for reconstruction costs in Iraq. Was the administration bending the truth 6 months ago?

Madam Speaker, the American people are skeptical about these reconstruction funds. We really cannot blame them. In five of the largest areas of reconstruction, we will be spending considerably more money per capita in Iraq than we spend on our own people here at home.

The Bush administration proposal calls for $3.7 billion to fund repairs and improvements to water and sewage services in Iraq, a great funding proposal from an administration that is certainly no friend of environmental policies here at home. In fact, the administration called for a 25 percent cut in the number of EPA clean-water sewage treatment grants over the past year here in the United States.

Madam Speaker, the Iraq supplemental calls for $900 million to construct, repair, and equip hospitals in Iraq, 10 times as much per person as we are spending on repairing and constructing our own hospitals, clinics, veterans medical facilities, and U.S. military medical facilities.

Months after the largest power blackout in our Nation's history, the Iraq supplemental calls for $6 billion to rehabilitate the electric power infrastructure of Iraq at a per capita cost of $250.32. Here in the United States we do not even spend a single dollar to upgrade our electrical grid.

Madam Speaker, we all understand that Iraq must be rebuilt, but does this Nation have to bear the brunt of the costs? Tough questions must be answered by this administration over the next couple of weeks, and I only hope that they are more forthcoming than they have been in the past.

The SPEAKER pro tempore (Mrs. MILLER of Michigan). Under a previous order of the House, the gentleman from Illinois (Mr. DAVIS) is recognized for 5 minutes.

(Mr. DAVIS of Illinois addressed the House. His remarks will appear hereafter in the Extensions of Remarks.)

THE GOLD-PLATING AND WAR PROFITEERING CONTINUES

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Oregon (Mr. DEFAZIO) is recognized for 5 minutes.

Mr. DEFAZIO. Madam Speaker, I brought something here tonight to show to the American people. This document, which has become publicly available, is the coalition provisional authority request to rehabilitate and reconstruct Baghdad, Iraq. Published accordingly, Baghdad, Iraq, is a gold-plated guide to war profiteering. I urge each and every tax-paying American citizen to get a copy to see where the $20.3 billion that President Bush wants to borrow in their name to send to Iraq will be spent.

We have already had some examples of just incredible waste. There was a cement plant in northern Iraq needed repair. Mr. Bremer sent in his experts. They said it would cost $15 million. The Iraqis could not wait, and they went ahead and repaired it for $80,000.

There was the $25 million spent to rebuild police stations in Basra. The Iraqis estimate they could have done it for $5 million or less.

Then there was the $5,000-per-day contract Mr. Bremer signed to feed the Iraqi governing council, all 25 of them. I guess we were going to fly over catered meals from the United States of America. The governing council was so appalled at that waste of money, even though it was being spent by the United States of America, borrowed by the President on behalf of the American people, they cancelled the contract, got some local food for a fraction of the cost.

Then, of course, on the governing council, we have Mr. Ahmad Al-Barak, and he estimates that in cases the savings could be a factor of 10. Where they spend $1 billion, we would spend $100 billion. If we carry that formula through, instead of borrowing $20.3 billion on behalf of the American people and spending it to rebuild Iraq, as the President wants to do, we could do it for $2.3 billion or less.

There are other things in this new proposal that are a bit strange. There is the proposal of $33,000 per pickup truck delivered in Iraq. I went online just to kind of check out a pretty nice 2003 new Ford F–150, two door regular cab, XL, two-wheel drive, style side, with the AC and the automatic transmission and of course destination charge, $17,817. Does not have armor plating, but then again neither do the Humvees that this administration gave to our troops who are being killed on a daily basis.

There are other things that I would question here, $20 million to develop and train a cadre of business people in Iraq. That is a 4-week course, $10,000 each. By equivalent it would cost $4,000 to send them to Harvard, or if we send them to a continuing-education course at a community college in my district, we could put them through a good course, one term, with credits, for $400. But the Bush administration wants to spend $10,000 per Iraqi, $20 million borrowed from the American people, spent to give these $10,000 4-week courses to Iraqis.

Then, of course, there is a lot of, like, well, we have an obligation to all the damage we did to the country. I guess we blew up their wireless Internet network. Whoops, wait a minute. They did not have wireless Internet network, did they? No, they did not, but an essential part of this reconstruction effort is that we provide a wireless Internet network for all the Iraqis and their laptop computers. I do not know how many Iraqis have laptop computers, but I think that is somewhere else in the request perhaps. Although we cannot equip our kids, our schools with laptop computers, we are going to give them to Iraqis.

There are other things that have more merit arguably, $5.8 billion to rebuild their power grid and electrical system. I thought, well, maybe we did that. I found out it was not necessarily for damage we caused. In fact, Mr. Bremer was quoted saying, well, I have been into the plants, they have got these boilers from the 1950s and 1960s; they are holding them together with duct tape. What does that have to do with the war? What obligation does that put on the American people? Why should we borrow money on behalf of the American people, though it will be repaid and there is a lot of talk about children and grandchildren, by tax paying Americans today, children and grandchildren of tax paying Americans, to give the Iraqis state-of-the-art cycled turbines to generate electricity in Iraq? They cannot use the old system; we cannot just put that back together for a fraction of cost. No, they have got to have a brand new system. Of course, here in the United States of America where lights blinked out in the West a few years ago, blinked out in the East this year, the President cannot find any money to invest in our system and keep our lights on, but we can give them a state-of-the-art system there in Iraq.

If we spent this $20.3 billion on infrastructure and critical needs in the United States of America. Even if we borrowed it on behalf of the American people and spent it on behalf of the American people, we could provide 1 million jobs in this country. This provides for nothing but war profiteering to generous contributors to the Bush administration.

HONORING SHERYTHIA SCAIFE, RALPH DUKE, AND JOHNSON'S CHAPEL UNITED METHODIST CHURCH

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Tennessee (Mrs. BLACKBURN) is recognized for 5 minutes.

Mrs. BLACKBURN. Madam Speaker, in every one of our lives there are people and places that are really unique, and they are so special that they become an essential part of who we are and who our communities are and what they become over time.

Today, I want to recognize two people and one place that have not only helped shape who I am, but they have touched the lives of our entire community and thousands of people. Quite simply, they represent what is the very best about Tennessee.

This month Sherythia Scaife, a member of the board of directors for historic Belmont Mansion in Nashville, will receive the Helen Kennedy Award for volunteer service. The Belmont Mansion is truly one of those historical treasures in Tennessee; and Sherythia, the best way to sum it up is she is simply one of our treasures, such a wonderful woman.

As everyone involved in charity work can tell us, fund-raising is a tough job; but Sherythia committed her energies to preserving the Belmont Mansion, and she has helped lead the effort to raise funds for the Belmont Mansion. We are lucky to have this wonderful part of the past with us still, and we are even luckier to have someone like Sherythia Scaife here to help protect Belmont Mansion for the future.

In the city of Franklin, Tennessee, where I have one of my district offices, there was a man whom everyone knew. He was our friend, a leader, a small business owner. He was truly a pillar of the community. Ralph Duke started out as a grocery bag boy, and he ended up as our town's main street pharmacist and civic leader.

We lost Ralph just a few days ago; and in thinking about what he meant to all of us, I was amazed at just how much he had accomplished in his lifetime. He filled close to 1 million prescriptions over the years to keep us healthy. He served us as an alderman and worked to improve police and fire service to help keep us all safe; and Ralph, above all else, took the time to say hello and to care about people, making us all feel that part of the community was important.

Ralph will be missed, but he is with us in our memories, and his family is with us in our thoughts and prayers.

A church is not just a building. It is also a source of strength and solace for a community of people. It is a place to offer our thanks to the Lord and Johnson's Chapel United Methodist Church in Brentwood, Tennessee, will be celebrating its 200th birthday on October 4, 2003. While the church structure has been destroyed by fire and renovated by man over those 200 years, the place has been one of God for all this time. It is a wonderful thing to think of the comfort and love that is so strong and true in this single location, a place that brings people together to worship our Lord, to honor our families, to celebrate some of life's most special occasions, like my niece's wedding, and sends them out into the world renewed, energized and excited about the word of God.

Madam Speaker, I imagine that all of my colleagues have stories like these of the wonderful places that exist in each of our districts, the things that make America and our communities so unique, a Nation where people like Sherythia Scaife and Ralph Duke can give of their time to others and a place where we can freely assemble in places of worship, such as Johnson's Chapel United Methodist Church.

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from the District of Columbia (Ms. NORTON) is recognized for 5 minutes.

(Ms. NORTON addressed the House. Her remarks will appear hereafter in the Extensions of Remarks.)

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California (Mr. FILNER) is recognized for 5 minutes.

(Mr. FILNER addressed the House. His remarks will appear hereafter in the Extensions of Remarks.)

IN MEMORY OF DR. MILTON WILSON

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas (Mr. HINOJOSA) is recognized for 5 minutes.

Mr. HINOJOSA. Madam Speaker, I rise to honor and pay tribute to a great American, my good friend, the late Dr. Milton Wilson from Houston, Texas. Dr. Wilson passed away on September 2, 2003. I hope my colleagues will join me in extending deepest sympathies to his family as they mourn this great loss. Although Dr. Wilson will be sorely missed, his family can take comfort in remembering his numerous accomplishments and the incredible legacy he left behind.

Dr. Milton Wilson was born July 20, 1915, in Paducah, Kentucky. His father was a Pullman car porter, and both his mother and grandmother were public school teachers. His parents instilled in him a strong work ethic and a love for education that stayed with him throughout his life.

After graduating from Lincoln High School in Paducah, Kentucky, Milton Wilson went on to earn a bachelor's degree from West Virginia State College and later earned a master's degree, as well as a doctorate degree in business administration from Indiana University at Bloomington. In later years, he returned to teach at Indiana University as a professor of accounting. His commitment to his students and his dedication to teaching earned him Indiana University's Distinguished Alumni Award.

Dr. Wilson continued his very distinguished career as head of the Department of Accounting at Hampton Institute in Hampton, Virginia, through 1944. At the request of President Dent of Dillard University, Dr. Wilson moved to New Orleans to head the university's business department until 1949.

□ 1730

Shortly thereafter, Dr. Wilson moved to my home State of Texas, and in 1952 became the first African American Certified Public Accountant in Texas. The President of Texas Southern University invited him to establish a Department of Business Administration, which later became the School of Business Administration, with Dr. Wilson serving as its first dean. Under Dean Wilson's leadership, TSU became the first school of business in Houston to gain accreditation by the American Assembly of College Schools of Business.

Because of trailblazing work, Dr. Wilson became nationally known as the dean of predominantly black business schools in this country. It was while he headed the TSU School of Business Administration that I first came to know Dr. Milton Wilson, his first wife Zelda, and his family. Mrs. Wilson, who passed away in 2001, was a beautiful, gracious and hospitable lady who always made me feel welcome in her home. I will always remember listening to her own stories and experiences, both challenging and rewarding.

His son, Milton Wilson, Jr., followed in his father's footsteps and has been honored many times in the Federal Government's Senior Executive Service, serving for the Small Business Administration. I am proud to recognize him as one of my best friends during the last 25 years.

Not content to rest on his laurels at TSU, Dr. Wilson also served as a visiting professor at both Harvard and the University of Chicago. He shared his expertise as a valued consultant for a number of Federal agencies. As adviser to the Ford Foundation, in conjunction with Indiana University, he led a project that resulted in the successful establishment of the Institute of Business Administration in Dacca, Pakistan.

Dr. Wilson remained at TSU until 1970, when President Cheek of Howard University called him and offered him a new opportunity. President Cheek requested that he establish the Howard University School of Business and Public Administration. Dr. Wilson accepted this challenge. Through his efforts, Howard University became the first school in the Washington area to gain AACSB accreditation, first for its bachelor degree program and, ultimately for its accounting program.

Madam Speaker, Dr. Wilson believed anything was possible. He never gave up and fought to make every institution of higher learning at which he served the best it could be. His students received the educational tools they needed to become prominent and successful business people, professionals and elected officials.

Throughout his life, Dr. Wilson received countless honors, awards and recognitions, including the Henry B. Gonzalez Latino Leadership Award, named in honor of our colleague, the late Congressman Henry B. Gonzalez. This citation for meritorious service is presented to those who have worked selflessly, often without recognition, and made contributions both in the Hispanic community and the broader society as well.

Dr. Wilson was chosen to receive this award because he embodied a giving, sharing spirit and made a lasting contribution to our nation through education. Upon retiring from TSU in 1990, Dr. Wilson was honored by the Texas House of Representatives for his distinguished serviced in his community, business, government and academia.

Dr. Wilson is survived by his second wife, Imelda Pradia Wilson and three children: Rhea Ann Fairley, Zelda Jefferson Young, and Milton Wilson, Jr.; his sister, Jessie W. Wilson; and five grand-children: Gladys Zelda Fairley, Paul Milton Fairley, Milton Wilson III, Marcus James Wilson, and Wendell Mosley.

Dr. Milton Wilson was a true American pioneer. His efforts and his accomplishments will long be remembered.

I ask all Members of Congress to join me in commending the late Dr. Milton Wilson for his exceptional career and contributions to our Nation and in extending our sincere condolences to his family and friends.

The SPEAKER pro tempore (Mrs. MILLER of Michigan). Under a previous order of the House, the gentleman from Michigan (Mr. STUPAK) is recognized for 5 minutes.

(Mr. STUPAK addressed the House. His remarks will appear hereafter in the Extensions of Remarks.)

IRAQ

The SPEAKER pro tempore. Under the Speaker's announced policy of January 7, 2003, the gentleman from Michigan (Mr. HOEKSTRA) is recognized for 60 minutes as the designee of the majority leader.

Mr. HOEKSTRA. Madam Speaker, tonight I wish to spend a few minutes talking about a couple of issues; number one, the progress and the commitment and the hope that I have observed in Iraq in two different trips, two different opportunities I have had to travel to Iraq, once in August and going back in September; and then I want to talk a little bit about the statement today by Dr. David Kay on the interim progress of the Iraqi Survey Group. The Iraqi Survey Group is the group that is working in Iraq and doing the search and the delineation of exactly what the WMD, the weapons of mass destruction, program consisted of in Iraq before and during the Operation Iraqi Freedom.

First, let me talk about my trip to Iraq in August and in September. You fly into a city of 5.7 million people and then you fly over Baghdad for half an hour or 40 minutes to get kind of an observation as to exactly what is going on in Baghdad. Remember, I did this in the middle of August. The first observation was that this was not a country and that this was not a city that was destroyed by war and mired in turmoil. Sometimes that is the impression that we get from watching the nightly news.

Aside from a few small pockets of destruction in Baghdad, the city appeared to be functioning close to a normal city in the Middle East. There were cars, buses and trucks on the streets. There were people on the streets. The stores were open. Commerce was going on in Baghdad. There had been a lot of progress and a lot of activity going on in Baghdad.

We had the opportunity to talk with our troops and to hear about the rebuilding and the reconstruction that they had been involved with in Iraq over the last number of months. They talked about having what I call walking-around money, but it is very closely tracked by the military. The military, at any given time, can print out a list of all the projects that they have been working on.

The 101st Division, up in northern Iraq, gave us a list of roughly 1,800 projects that they had been involved with, that they had completed or were still working on in the middle of August. They had 1,800 projects, from repairing clinics, drilling wells, repairing schools, working in hospitals, agricultural projects, and a whole number of different kinds of things that clearly empowered them to go into the communities where they were stationed and where they were trying to provide security and to assist the Iraqis in rebuilding their community, not tomorrow but at that moment and on that day. As these funds were depleted, the troops would get more funds. These funds came from the dollars that were left over in the Iraqi treasury after Saddam Hussein was overthrown.

A second thing that kind of struck me. I was impressed by the troops. They are doing an absolutely awesome job there. The other thing that people have asked me, what were you surprised about when you went to Iraq? I was not surprised about the work of our troops in Iraq. I have seen our troops in action in Afghanistan. I have been on aircraft carriers. I have been in Bosnia and Kosovo and had the opportunity to interact. I am not surprised by the work of our troops. I am impressed but not surprised. I have come to expect that because they have demonstrated it over and over.

But one of the things that did surprise me is I had heard of the palaces of Saddam in Iraq. I have been to Versailles, I have been to Buckingham Palace, but nothing prepares you for Saddam's lavish spending on himself once you take a look at his palaces in Iraq.

The palace in Tikrit has over 100 buildings in it. It probably stretches an area from the Capitol here in Washington down to the White House, if not a larger area. It has a perimeter security system with walls and watchtowers and those types of things; three to four story high buildings, which in terms of their scale are closer in scale to the size of this building, the Capitol of the United States, than what they are of our White House. And again he has these all over the country.

We also had the opportunity to meet with Peter McPherson, who is the President of Michigan State University, who for a number of months served in Iraq. He is now back at Michigan State but served as their finance minister.

I asked him about one of the allegations that was made about the post-war planning. I said, Peter, there are folks that are saying there is very little planning that went on as to what we were going to do after the war. He kind of laughed and said, you know, a number of the things that typically happen after a war in a country did not happen here in Iraq.

Many times the currency will collapse. As a matter of fact, here in Iraq, we had a debate about whether we should keep the Iraqi dinar. Why the debate? Well, the debate was the Iraqi dinar has a picture of Saddam Hussein on it, and the last thing we really wanted to do was to provide to the people of Iraq a constant reminder of the Saddam regime and that Saddam was still out there. But he said, Pete, we went through this conscious decision to keep the Iraqi dinar in circulation so that commerce could continue and so that the economy would not collapse.

He also said that by keeping the dinar in circulation and by providing the security into the system, the banks did not collapse, that there was not a run on the banks right after the banks reopened. The banking and the financial institutions stayed in business. As a matter of fact, with the stability that we have there, there are now a number of international banks that are clamoring to get into Iraq. And in a couple of weeks we will be introducing a new currency into Iraq, one that gets rid of the picture of Saddam Hussein on the money.

Peter McPherson worked with the Iraqi Governing Council to put in place a tax structure, highest tax rate of 15 percent, to put in a tariff structure and also to come up with rules for international investment. Every industry will now be open for foreign investment, except the energy sector.

I also had the opportunity to meet with another individual from Michigan, Jim Haverman, who is serving as kind of the shadow finance minister, or health care minister in Iraq. What he is doing is rebuilding the structure. I asked him the same question. Jim, what about the plan or the lack of planning in the post-war period?

He came back and said, we do not get a lot of credit or we get no credit for the things that did not happen here. A lot of times after there has been a war, there will be an outbreak of epidemic diseases, things like cholera, malaria, and other diarrheal diseases. So you notice none of those things happened here in Iraq. We were able to keep the hospitals open, we were able to keep the clinics open, we were able to provide the basic health care necessary to prevent the outbreak of epidemic diseases, and now we have moved forward, that we have distributed 10,000 tons of pharmaceuticals.

It is not that many of those pharmaceuticals were not present prior to the war in Iraq. They were present in Iraq, but they were stored in warehouses, and they were there for the elite and not for the masses. But what Jim and the Iraqi health care service have done is they have been focusing on getting quality health care or improved health care out to much of the rest of the country. They have been successful in doing that, and they are now working at upgrading the health care system.

Remember, somebody like Saddam Hussein spent about 60 to 70 cents on health care for each and every Iraqi last year, in contrast to what he spent on his palaces. And the joke, though it is not very funny in Iraq, is what Saddam spent his money on. He spent his money on his palaces. He spent it on runways. You will fly over Iraq and you will see military runways all over Iraq, so he was building the military infrastructure. And then he also spent a significant amount of money on munitions. Later on, as I talk about Dr. Kay's report, Dr. Kay outlines that they estimate that they have munitions dumps that will hold over 600,000 tons of munitions.

The bottom line, from my perspective and those of the people who I traveled to Iraq with, is that we are making progress in Iraq. We are bringing stability and hope to the Iraqi people. It does not mean that on occasion, and maybe too frequently, we do not have spectacular setbacks, the death of American soldiers or a bombing where the folks that are opposed to us are going after American troops, coalition troops, Iraqis that are helping us, Iraqis that are stepping up and taking leading roles in their government, but we are making progress.

□ 1745

It is our hope that once the people of Iraq experience freedom, economic opportunity and a representative democratic government, the hope and expectation is that they will embrace this new way of life and will not foresee ever returning to tyrannical rule by a despotic government that exerts control through fear and oppression.

Today in the Permanent Select Committee on Intelligence we had an opportunity to listen to testimony from Dr. David Kay talking about the progress, the 3-month progress report from the Iraqi survey group. This statement was released by Dr. Kay to the public at 5 p.m. This is a nonsecret version of the testimony that he provided to both the House and the Senate intelligence committees today. It contains a portion of what we heard today, but not everything. Let me just go through some of the materials that Dr. Kay wanted us to fully understand. This was my fourth opportunity to meet with Dr. Kay. I met with him on three different occasions in Iraq and then in front of the committee today.

He begins by saying that he cannot strongly enough emphasize that the interim progress report is a snapshot in the context of an ongoing investigation of where we are after our first 3 months of work. It is not a completed report. It only covers the first 3 months. He says that they are still very much in the collection analysis mode, seeking the information and evidence that will allow us to confidently draw comprehensive conclusions to the actual objectives, scope, and dimensions of Iraq's weapons of mass destruction activities at the time of Operation Iraqi Freedom. Iraq's WMD program spanned more than 2 decades, involved thousands of people, billions of dollars, and was elaborately shielded by security and deception operations that continued even beyond the end of Operation Iraqi Freedom.

He goes to say that the result talks about the period from 1991 to 2003 where much of what we expected to find in Iraq was based on very, very limited information. He talked extensively about what they have found and what we have not found. He said, ''What we have not found are stocks of weapons, but we are not yet at the point where we can say definitively that such weapon stocks do not exist or that they existed before the war and our only task is to find where they have gone.''

Mr. Speaker, why are they having such difficulty? Here are some reasons. All of Iraq's WMD activities were highly compartmentalized within a regime that ruled and kept its secrets through fear and terror. It is hard to find out what was going on in Iraq. Deliberate dispersal and destruction of material and documentation relating to weapons programs began pre-conflict and ran trans- to post-conflict. They destroyed the evidence and the information that would have clearly and quickly outlined for us exactly the programs they had in place. ''Post-Operation Iraqi Freedom looting destroyed or dispersed important and easily collectable materials and forensic evidence concerning Iraq's weapons of mass destruction program.''

The report covers in detail the significant elements of this looting that were carried out with a clear aim of concealing pre-Operation Iraqi Freedom activities of Saddam Hussein's regime. Some WMD personnel crossed borders in the pretrans-conflict period, and may have taken evidence and even weapons-related materials with them.

Another reason we are having some difficulties, any actual WMD weapons or materials are likely to be small in relationship to the total conventional armaments footprints and difficult-to-near impossible to identify with normal search procedures. It is important to keep in mind that even the bulkiest materials we are searching for and the quantities we would expect to find can be concealed in spaces not much larger than a two-car garage.

But what have they found? This is not only about why it is difficult. What he is telling us is why we maybe did not just walk into Baghdad or Iraq and say here is the warehouse, and here is all of the information. He is telling us why it is difficult, and he says they have found dozens of WMD-related program activities and significant amounts of equipment that Iraq concealed from the United Nations during the inspections that began in late 2002.

Continuing on, he gives a few examples of these concealment efforts, some of which I will elaborate on later. They include a clandestine network of laboratories and safehouses that contained equipment subject to U.N. monitoring and suitable for continuing CBW research; a prison laboratory complex, possibly used in human testing of biological agents; referenced strains of biological organisms concealed in scientists' homes, one of which can be used to produce biological weapons; new research on biological weapons applicable agents, documents and equipment hidden in scientists' homes that would have been useful in resuming uranium enrichment by centrifuge and electromagnetic isotope separation; a line of UAVs not fully declared at an undeclared production facility and an admission that they had tested one of their declared UAVs out to a range of 500 kilometers, 350 kilometers beyond the permissible limit; continued covert capability to manufacture fuel propellant useful only for prohibited SCUD variant missiles; plans and advanced design work for new long-range missiles with ranges of up to 1,000 kilometers, well beyond the 150-kilometer range limit imposed by the U.N.; clandestine attempts between 1999 and 2002 to obtain from North Korea technology related to 1,300 kilometer-range ballistic missiles.

They faced systematic destruction of documents. With regard to biological warfare activities, he stated that Iraqi survey group teams are uncovering significant information, including research and development of BW-applicable organisms, the involvement of Iraqi intelligence service, and possible biological weapon activities and deliberate concealment activities.

All of this suggests Iraq after 1996 further compartmentalized its program and focused on maintaining smaller, covert capabilities that could be activated quickly to surge the production of biological weapons agents. Debriefings of IIS, Iraqi Intelligence Service, officials and site visits have

begun to unravel a clandestine network of laboratories and facilities within the security service apparatus. This network was never declared to the U.N. and was previously unknown. They are still working on determining the extent to which this network was tied to large-scale military efforts or BW terror agents; but this clandestine capability was suitable for preserving BW expertise, BW facilities, and continuing R&D, all key elements for maintaining a capability for resuming BW production.

The Iraqi intelligence service also played a prominent role in sponsoring students for overseas graduate studies in the biological sciences. No big deal, except, the quote continues, according to Iraqi scientists and Iraqi intelligence service sources providing an important avenue for furthering BW applicable research. Interestingly enough, this was the only area of graduate work where the Iraqi intelligence service appeared to sponsor students.

Another quote, in a similar vein, two key former BW scientists confirmed that Iraq, under the guise of legitimate activity, developed refinements of processes and products relevant to BW agents. The scientists discussed the development of improved simplified fermentation and spray-drying capabilities for the simulant BT that would have been directly applicable to anthrax. One scientist confirmed that the production line for BT could be switched to produce anthrax in one week if the seed stock were available.

Another area that needs investigation, another quote out of the report, additional information is beginning to corroborate reporting since 1996 about human testing activities. Let me repeat that: reporting since 1996 about human testing activities using chemical and biological substance, progress in this area is slow given the concern of knowledgeable Iraqi personnel about their being prosecuted for crimes against humanity.

I have only got a couple of minutes left; and the report that Dr. Kay has issued is an interim report, and I think that this report is now going to be available, or this portion, the declassified portion is going to be available to the American people.

When you read through here and you take a look at the concealment of these different programs from the U.N., the systematic effort to hide and destroy relevant information, and then the things that we have found already, the different labs, the discussion about human testing, the different efforts that they had that were under way, the work that they had going on in a number of different areas, it becomes clear quickly that we need to do two or three things, the first of which is we need to let Dr. Kay finish his report and to finish his work. As he states at the front end, it is too early to draw any conclusions as to exactly what was going on, what was available, and where Saddam Hussein was going. We need to let Dr. Kay finish his work so that we will have a clear understanding of what was and what was not available in Iraq, and that is going to be a very difficult task given the destruction of materials and the environment that we have in Iraq today.

The second thing that we need to do is we need to make sure that we give Dr. Kay the resources to get the job done.

The third thing we know is there was a lot of stuff going on in Iraq, and the approach that Dr. Kay is taking is exactly the kind of approach that we need to take. Dr. Kay really has three criteria that he talks about before he will reach conclusions on exactly what Iraq has. He wants to find physical evidence, the materials or the equipment that demonstrate that certain programs or activities were under way. He wants to find the documentation that says here is the equipment, here is the documentation that outlines what this equipment was intended to do, and then the third piece that he wants to put with this is these are the Iraqis that were working the plan and working the equipment so that he has put all of the pieces together. That is exactly the kind of approach that we need to take, rather than asking Dr. Kay or others to jump to conclusions based on the piecemeal information that we have today.

In this report, Dr. Kay talks about the mobile labs. They have found mobile labs. So they have a piece of the puzzle. They have found mobile labs, but rather than reaching a conclusion and saying what they were or were not used for, since they only found the mobile labs and they have not found the documentation and they have not found the Iraqi personnel that might have been operating these labs, we are at this point in time speculating what they may have been used for and capable of; and Dr. Kay has simply in this report said we are not reaching a conclusion or making a decision as to what we believe that equipment was being used for. We are going to wait until we find the Iraqis; we are going to wait until we have an opportunity to uncover the documents that will outline exactly what these bio labs or what these laboratories, mobile labs, were going to be used for.

The professionalism of Dr. Kay and the process that he is going through are exactly what we need to have in place at this point.

□ 1800

I think that the report today that was issued, the portions of the report that were made public, the portions of the report that are still classified, should give us the highest degree of confidence that Dr. Kay is going through this in exactly the right way that it needs to be done and that there are a number of very, very serious issues that need to be pursued and that we need to get to the bottom of. It will help us to better determine the accuracy and the effectiveness of our intel before the war, but also it will give us a better understanding as to how far chemical and biological weapons had progressed in Iraq, and we need to know that so that we will also have an idea as to what at some point in time may have been transferred to others who may want to do us harm.

THE SITUATION IN IRAQ

The SPEAKER pro tempore (Mrs. MILLER of Michigan). The balance of the majority leader's hour is reallocated to the gentleman from Iowa (Mr. LEACH).

Mr. LEACH. Madam Speaker, I rise today to discuss the troubling situation in Iraq and the difficult legitimacy challenges posed by the U.S.-led coalition victory. In particular, I am convinced that the best way to develop international support for reconstruction efforts and reduce violence in the country is for the U.S. to maintain preeminent military leadership but grant the United Nations explicit authority for managing Iraq's political transition.

As my colleagues are aware, Ambassador L. Paul Bremer, III, head of the Coalition Provisional Authority in Iraq, testified before several House committees last week regarding the administration's supplemental appropriations request for Iraq. In explaining administration policy, he outlined a number of constructive measures aimed at creating a sovereign, democratic, constitutional and prosperous Iraq. These included bolstering the security situation in the country and advancing bold economic reforms designed to refashion the Soviet-style command economy bequeathed by Saddam into a vibrant free enterprise model for the region.

Ambassador Bremer also laid out a seven-step political transformation process. According to the Ambassador, three of the steps leading to sovereignty have been completed: In July, an Iraqi Governing Council was appointed; in August, the Governing Council named a Preparatory Committee to recommend a mechanism for writing Iraq's new, permanent constitution; and in September, the Governing Council appointed ministers to run the day-to-day affairs of state.

Additional steps include developing a process by which the Iraqis write their own constitution, and here Secretary Powell has expressed the hope that this could be completed in the next 6 months, although others have expressed doubts about the time frame; ratifying the constitution by popular vote of the entire adult population; holding elections for a new Iraqi government; and, finally, following elections, formally transferring sovereignty from the Coalition Provisional Authority to the new government in Baghdad.

These are reasonable and responsible steps, but to address unresolved questions about the legitimacy of America's role in Iraq, I believe that there should be a further interim step, call it step 3(a), added to Ambassador Bremer's list: a reduction of Washington's virtually exclusive political authority, as exercised through the CPA, and an enhancement of the role of the United Nations in the governance process.

In an American historical and philosophical context, legitimacy is derived from the consent of the governed through democratic elections. In many societies, governments attempt to derive legitimacy by other means, through history and tradition, through precepts like the divine right of kings, through theocratic assertions as well as, to paraphrase Mao, the barrel of a gun.

In Iraq, the problem is both obvious and profound. The removal of Saddam Hussein and the process of de-Baathification have left a vacuum of power. This vacuum has been filled, in part, by U.S. and other coalition authorities, civil and military, and in part through a de facto devolution of power to informal groupings based on local ethnicities, tribes, religion, and even organized crime. As we all understand, supporters of the old regime within Iraq, aided by jihadists from abroad, remain engaged in acts of violence and sabotage aimed at destabilizing the new order. In addition, the occupation's U.S. face has heightened suspicion and anger in Iraq and much of the Muslim world where many people view intervention as part of a Washington agenda to control the region and its principal resource, oil.

The U.S.-led military authority, following extensive consultation with the country's major political factions, appointed an Iraqi Governing Council. The U.N. Secretary General and the late Sergio de Mello, the former U.N. special envoy to Iraq, supported the representative nature of the Council. But for Iraqis the Council still lacks legitimacy because it was selected by an outside power which maintains a veto over decisions.

In this context, it is impressive to reflect upon the fact that at every turn in the last century the world has underestimated the power of nationalism. In Iraq, all of us are learning anew how close we are to the Hobbesian jungle where life is nasty, brutish and short and how impressive, for good or ill, is the power of nationalism, the desire of people to carve their own destiny, to make their own mistakes.

What appears clear at this juncture is that the return of Saddam Hussein will not be countenanced either in Iraq or in the region; what is unclear is whether the current nation-state boundaries will hold, whether chaos will be unleashed, whether democratic aspirations will produce lasting democratic institutions, whether economic and social change will be fast or fair enough to satisfy the enormous expectations of the Iraqi people.

At the end of the Second World War, the U.S. was part of a coalition of victors in the greatest struggle of the 20th century. Postwar circumstances afforded the U.S., as the preeminent global superpower, the luxury of being able to control sovereignty in Japan until 1952 and, to a lesser degree, in West Germany until 1959. Today, by contrast, the world is more impatient. The nature of the Middle East, the Muslim world and modern communications is such that the circumstances that prevailed in the late 1940s allowing for an extended, uncontested American occupation no longer exists.

The most propitious position for the U.S. today is not to rule Iraq as a victorious occupying military force but instead to share accountability with the international community in such a way that it becomes clear that Saddam Hussein was not principally a threat to America but to his own people and civilized values in general. The war should be considered won on behalf of, not against, the Iraqi people.

American civilians who have been asked to serve in Iraq are some of the finest civil servants in the world. I have the highest respect for Ambassador Bremer and his principal deputy, Walter Slocum, as well as people like Peter McPherson, the president of Michigan State University, and Charles Greenleaf, also of Michigan State, who have come in to help lead reconstruction efforts and civil affairs.

But in order to establish consensus and legitimacy from parties outside as well as inside Iraq for efforts to rebuild the country, the U.S. would be wise to accept an international civil authority as a prelude to transferring power to the Iraqi people through a constitutional process.

We also might consider lending more legitimacy to the Governing Council by a symbolic transfer of sovereignty and the seeking of support for it to occupy Iraq's U.N. seat during the transitional period.

From a military perspective, the United States Armed Forces could not have performed more professionally and valiantly than in the initial engagement. But in no small measure because the civilian governance is considered illegitimately Americanized by much of the Muslim world, U.S. subjects have become targets for anarchistic attacks by groups and individuals who claim the mantle of nationalism and religious authority. Baathists from within and anti-American cohorts from without need to understand that Saddam Hussein's kind of rule is anathema to all civilized values.

The issue of relegitimizing the Iraqi government is one of timing as well as intent. Timing that is tardy can jeopardize the safety of American soldiers in Iraq and also serve as a spark for a potential surge of terrorism around the world. What is new in international relations is that the religious and national instincts of an embarrassed people can become a rallying cry for sympathizers to lash out in other societies. And what is different from the U.S. experience as an occupying power after World War II is that Iraq, like the Balkans and Afghanistan, has significant religious and ethnic subgroups at odds with one another. Iraqi society is neither homogenous as Germany and Japan were, nor a social melting pot like America is. Iraqi nationalism is thus complicated by sub-national identifications and supra-national religious and regional communities of value.

As a military challenge, Iraq is not like Vietnam. It is much more containable. But as a challenge to the international social order, it is far more difficult than Vietnam. After all, weapons of mass destruction were not at issue in Vietnam. Nor was a clash of civilizations in play except in the sense of the contrast of democratic forces lined up against the secular ideology, communism.

Unless we recognize that while there is certain Iraqi appreciation for the coalition's overthrow of Saddam, any support for our post-war leadership is tenuous and respect for our intervention is virtually nonexistent in the rest of the Muslim world. Cultural differences, particularly religious, coupled with the aftershock of military defeat, the continuance of terrorist attacks and the lack of immediate prospect for self-determination form a political stew that easily boils over.

Our traditional European allies have by intent or happenstance triangulated the U.S. and, to a lesser extent, Britain into a singular standoff with the Muslim world. Osama bin Laden began his terrorist initiatives speaking of a Muslim clash with the West. Now radical Muslim rhetoric is aimed almost exclusively against America. Our goal should be to make clear, in voice and policy, that we do not stand alone. Because of dissent between Europe and America, it might be wise to look to new leadership for the Iraqi transition in other parts of the world. An individual from a noncoalition country may or may not be as competent as Ambassador Bremer and his staff, but a change of faces has the potential of changing the face of the circumstance Iraqi people and the Muslim world see every day.

As one who dissented from the decision to go to war but respects the integrity of the individuals who made the decision, I am convinced that we must all now work together to get out of the predicament we are in. Nothing could be worse for world order than long-term American entanglement in Iraq. Respect for American leadership and American values has seldom been more on the line. We have to come together with the rest of the international community in a collective effort to make Iraq a better country than the society we attacked. The consequences of failure would be catastrophic.

I recently returned from a trip to the Far East where I urged our friends in the region to help. An isolated America, I warned, is likely to become an isolationist America. The ramifications for international trade as well as politics are potentially explosive.

At the height of the Vietnam War, Senator George D. Aiken of Vermont became famous for a policy suggestion in the form of a quip. He argued that the U.S. should simply declare victory and get out.

Iraq is not a circumstance in which the U.S. should be trumpeting military victory despite its decisiveness. But little could be more appropriate than to announce a change in policy based on the fact that our principal mission has been accomplished, ridding Iraq of a despotic dictator and eliminating the near-term prospect that Iraq could become a center for the development and distribution of weapons of mass destruction, whether or not Saddam had a significant WMD capability prior to U.S. intervention.

Having intervened, the U.S. cannot end its responsibility until Iraqi society is back on its feet in a credible, progressive and legitimized governance basis. The question is whether that basis is more likely to be achieved with Americanization or internationalization of responsibility.

My sense is that the establishing of a more progressive government in Iraq will be achieved earlier and with substantially less bloodshed if it becomes clear that Iraq is being put back together under the mantle of an international mandate rather than by an intervening military power.

□ 1815

The goal should be to emphasize the idealism of the challenge before us rather than dwell on realpolitik posturing which can too easily trigger increased anarchy and even a clash of civilizations. Strength, to be sustainable, must come from a balance of judgment that brings respect rather than resentment from the rest of the world. Otherwise, an intervention designed exclusively to diminish terrorism could serve as a rationale to expand terrorism around the world, including on our own shores.

Four decades ago, the British author Lawrence Durrell wrote a series of novels called the ''Alexandria Quarter'' in which he describes a set of events in Alexandria, Egypt, before World War II. A seminal literary experiment in the relativity of human perception that was named one of the top 100 novels of the last century, each of the books viewed the same events through the eyes of four different participants. The full story cannot be comprehended without synthesizing how each of the protagonists viewed events from his or her own individual perspective.

Today, in Middle East, we have an analogous circumstance. For the full story of Iraq to be understood, we need to understand how events are perceived through very different sets of eyes and very different sets of reasoning. American policy makers, for instance, generally reason in a pragmatic, future-oriented manner. Much of the rest of the world, on the other hand, reasons more generally, by historical analogy. Events centuries back play a definitively greater role in judgments made about policies today.

Symbolically,the nature of the radically different way Americans and Middle Easterners look at the world is reflected in the startling statistic that four out of five Al Jazeera viewers believe a French author who claims that the plane which blasted into the Pentagon on 9/11 was actually a U.S. military aircraft ordered by the U.S. military to hit itself in an effort to justify the invasions of Afghanistan and Iraq. This kind of conspiracy theory is instantaneously understood as ludicrous in America, but not elsewhere. In fact, even in the heart of the democratic Europe, conspiracy theories about the events of 9/11 have topped best-seller lists. Intriguingly, from a Muslim perspective, the fact that nearly 70 percent of the American public believe that Saddam Hussein was personally involved in the attacks of September 11 appears equally uncompelling. Muslims note that no Iraqi citizen was involved in the attack and believe that alleged evidence of Iraqi complicity is peripheral and tangential at best.

On the other hand, virtually the entirety of the Muslim world recognizes Saddam to have been a sadistic dictator. There is no public support for him, but extraordinary consternation that a Western power would intervene in the Middle East in the way it did.

It is possible to suggest, from an American perspective, that since we received inadequate support for the UN, it makes little sense to cede authority to outsiders now. On the other hand, if one does not rebalance transitional governance in Iraq, it is hard for America to suggest to the international community that all countries have an obligation not only to support the governing authority but provide reconstruction assistance.

The question is whether America would be better off with a new Security Council mandate that gives responsibility for coordinating the political transition process to the UN, assisted by American experts already in the field, while maintaining the U.S. role in military and internal security concerns, or whether we want to continue to bear near exclusive responsibility for a country with a government lacking legitimacy.

I am convinced that the fact that the U.S. did not get solid support from the UN, prior to the invasion, underscores the importance of seeking greater international legitimacy in the transition to a democratic Iraqi Government.

Simply put, legitimacy delayed is security denied.

PRIVILEGED REPORT REQUESTING PRESIDENT TO TRANSMIT REPORT ENTITLED ''OPERATION IRAQI FREEDOM STRATEGIC LESSONS LEARNED'' AND DOCUMENTS IN HIS POSSESSION ON THE RECONSTRUCTION AND SECURITY OF POST-WAR IRAQ

Mrs. MILLER of Michigan (during special order of Mr. LEACH), from the Committee on Armed Services, submitted a privileged report (Rept. No. 108–289, Part 2) on the resolution (H. Res. 364) requesting the President to transmit to the House of Representatives not later than 14 days after the date of adoption of this resolution the report prepared for the Joint Chiefs of Staff entitled ''Operation Iraqi Freedom Strategic Lessons Learned'' and documents in his possession on the reconstruction and security of post-war Iraq, which was referred to the House Calendar and ordered to be printed.

IMMIGRATION, OVERTIME, AND RUSH LIMBAUGH

The SPEAKER pro tempore (Mr. MCCOTTER). Under a previous order of the House, the gentlewoman from Texas (Ms. JACKSON-LEE) is recognized for 5 minutes.

Ms. JACKSON-LEE of Texas. Mr. Speaker, there are several items that I would like to comment on and share with my colleagues.

We had a very powerful day today. Hundreds of immigrants and immigrant supporters, friends of this Nation, parents and sisters and brothers and neighbors of some of the young men and women that are now on the frontlines of Operation Iraqi Freedom came to the Nation's Capitol to speak to the issues of civil rights and human dignity. They came in what we call the Immigration Freedom Ride. They leave tomorrow morning on to New Jersey and then to go to the seat of Ellis Island in New York to be able to restate to all Americans that we all came from somewhere, and that this Nation is bountiful because each of us were able to contribute our own culture and the respect for human dignity. They ask simple things, Mr. Speaker, and that is access to legalization, the ability to reunite their families, and civil rights and civil justice. They came in the spirit of the Freedom Riders of the 1960's and the first ones in the 1940's. They came in a spirit of Martin Luther King and the gentleman from Georgia (Mr. LEWIS), our own colleague. They walked across the bridge in Selma, Alabama, the Edmond Pettus bridge. They realize that the two have now intertwined: their quest for civil justice and civil rights, as our quest, the Freedom Riders' in the 1960's quest for civil rights and civil justice. And they call upon America's goodness, just as we who are African Americans, maybe called colored, maybe called Negros in the early 1960's pressed the case that we too were Americans.

I believe it is time now for this Congress to put in place legislation that deals with earned access to legalization, to be able to say that if they have not committed a criminal act, that they are here working, they may be undocumented, they are paying their taxes, that they should have the access to being able to apply for citizenship. I believe we should pass 245(i) to reunite our families. And, yes, I believe that we should treat all people with human dignity.

And so, Mr. Speaker, I rise today to remind my colleagues that we are the people's House. We should open our doors to this voice and the voices that cannot be heard or the picture of the young lady that was shown to me who is suffering because she cannot access a kidney transplant, and she came here as a baby and is still here at 21 years old and dying with kidney failure. How unmerciful can we be? And I would ask that my colleagues consider a real immigration policy for this Nation that deals with the security of this Nation, the justice of this Nation.

And then might I say very briefly, Mr. Speaker, we spoke today on the floor of the House about an untoward legislative initiative that would force hardworking Americans to overcome or to be able to eliminate their overtime. I said overcome. I wish we could overcome it. We won the instruction to the Labor-HHS conference to say that we do not want to eliminate America's overtime. Hardworking Americans, our first responders, restaurant workers, white-collar workers, people who are putting their children through college, the only way they do it is through overtime. What an insane proposition that we would even believe that is the right thing to do with the economy stumbling as it is.

And then, Mr. Speaker, I come to say something that I wish I did not have to do. That is to bring to task Rush Limbaugh, who has been blessed by being in this country, having the freedom to say anything he desires to say. The first amendment gives anyone the right. It protects free speech. It respects sometimes hostile speech. Rush Limbaugh decided that he had the latitude to be on ESPN and to castigate an African-American quarterback. And as I stand here today, I insist that he has the right to free speech. He has castigated those of us in public life every day of the week. He spoke with great insult of President William Jefferson Clinton. Not that he has no right to say that, but he disrespected, from my position, the position of the Presidency. But what Rush Limbaugh does, and what is an insult, is that he continues the stereotypes and stigma and does not respect the human dignity of all people.

Rush Limbaugh, I say to you, you have a first amendment right, but you have no values. You have no ethnic respect. You have no dignity and no integrity, and you do not know what it is to hurt people.

All I can say is that it is time now that we stand up against this kind of bigotry and hateful speech, and I stand, today, against it.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. The Chair would remind all Members to address their remarks to the Chair.

QUESTIONS CONCERNING MONEY FOR IRAQ

The SPEAKER pro tempore. Under the Speaker's announced policy of January 7, 2003, the gentleman from Maryland (Mr. CUMMINGS) is recognized for 60 minutes as the designee of the minority leader.

Mr. CUMMINGS. Mr. Speaker, this evening the Congressional Black Caucus is coming before this Congress to address the issue of the $87 billion that the President just recently requested of this Nation to continue our efforts in Iraq and in Afghanistan. We certainly are a group of 39 people, and I often say 39 very gifted legislators, who are simply ordinary people called to an extraordinary mission, and in the process of doing the extraordinary, I do believe that we have become extraordinary. And we have been consistently standing up for our troops over and over and over again because they are our children, they are our brothers and sisters, they are fathers, they are mothers.

And just the other night, Mr. Speaker, at the Congressional Black Caucus annual banquet, we were very pleased to honor Sergeant Shoshanna Johnson, who of course we know was shot in both feet and taken captive in Baghdad. So tonight we come to address this $87 billion because it is our belief that our troops must be supported, but at the same time we are very clear that we need to look at the moneys that are being spent on what I would title the resurrection of Iraq after we tore it down, and we want to look at both sides of it.

In other words, we want to look at the money that it is going to take to support our troops, but at the same time we want to look at the money that will be spent, and is being spent, for these no-bid contracts and for repairing the infrastructure of Iraq while the infrastructure of so many of our cities and our rural areas are falling apart. We want to certainly look at the issue of schools, building a new school system. And it has all been on the news here recently, particularly today and yesterday, about how the Iraqi children are now beginning their school year, and certainly we are a very compassionate group of legislators, but at the same time when we go back to our districts, we fail to understand why it is that so many of our children in our districts are sitting in classrooms with rain falling on their heads and trudging through mud because they are in portables or they have situations where they are in overcrowded schools. So we question that.

We also come questioning the whole question of elections. It is our understanding that a substantial amount of money is going to be spent on making sure that Iraq has a wonderful election system. And then we look at what we just saw here in the United States, the fiasco down in Florida and throughout the United States with our election process in the year 2000. And we believe, as the Congressional Black Caucus, that we are asking the basic questions, the questions that anybody would ask in any very serious family matter. This is not rocket science stuff. Questions like, Mr. President, we just spent $80 billion. What did we do with that?

□ 1830

And can you account for that and tell us what that was spent for? Questions like, it is our understanding that there is quite a bit of oil over in Iraq, and we want to know simply what that money is being spent for, because we were promised a long time ago that that money from those oil reserves would be used to resurrect Iraq but, at the same time, you now come to the American people asking them to do it.

The other thing that we are certainly concerned about is that we hear over and over again that we are fighting terrorism for the world, and we do believe that. But at the same time, we ask the question, if we are fighting terrorism for the world, if there is going to be substantial benefit to the world, why is there not substantial giving or sacrifice on the part of other countries?

And certainly we want to know the exit strategy. One of the things that the President said when he was running for office, and we certainly hold him to it, as the American people do, is that he would never go into another country, let our Armed Forces go into another country without having an exit strategy. We want to know what the exit strategy is.

Then finally, and there are some other questions that will be raised by my colleagues, but certainly we are very interested in knowing, how do we measure success. The answer has to be very clear with regard to our schoolchildren, and he has made excellent arguments about how we need to measure how our children are doing. That is all well and good. So we come to the President asking him, exactly how do we measure our accomplishments in Iraq?

I am so glad that this evening I am joined by my colleague who sits on the Committee on Armed Services, the gentleman from Florida (Mr. MEEK), a freshman who is just doing a great job. But the gentleman has an opportunity to look at it from an armed services standpoint, and I would like to hear from the gentleman.

Mr. MEEK of Florida. Mr. Speaker, I thank the gentleman for yielding. I am just so pleased how the gentleman from

Maryland (Mr. CUMMINGS), as chairman of the Black Caucus and also just as a Member of Congress, is asking the kitchen table questions. These are common questions that we took under assumption, we assumed, when the Commander in Chief, the President of the United States, and the Defense Secretary, Donald Rumsfeld, came to us and said, this is the situation, this is the case at hand, this is what we need to do. Some of us agreed, some of us did not agree, but genuinely as Americans, we said that we want to support our troops and their families; and we went right to work, thinking they were going to do the right thing.

We talk about the money. Mr. Speaker, $87 billion is an awful lot of money. That will buy quite a few new schools in our country. That will put forth quite a few opportunities as it relates to our youth in our communities. But as I look through this, finally, I just want to say to the gentleman that, finally, we got a plan, or what they call a plan, from the administration on Iraq and the reconstruction of Iraq; and that is supposed to explain the $87 billion.

I will tell my colleagues this, that what makes this plan flawed from the outset is the fact that this administration has said, the President, Donald Rumsfeld, and other leaders in the administration have said that we are going to the U.N. and we are going to get $12 billion from the U.N. We are talking to our friends at the U.N. Well, the President had an opportunity to go to the U.N. and make his case, but he did not make his case. He went saying the same thing that he said before to the U.N. And now, just today, just recently, the U.N. has agreed to $234 million. Mr. Speaker, $234 million is a far cry from $12 billion.

We of the Committee on Armed Services talk about the future need, which this administration is very reluctant to talk about. Yesterday, I think on Tuesday, Secretary Rumsfeld went before the Committee on Appropriations as it relates to armed services or military services, defense, and was very accurate as it relates to 14,000 recruits for the Iraqi police force, and some 50-something thousand Iraqi soldiers already out there. But when we asked the question, how many troops do we have? Well, that is kind of hard to gauge right now. Well, how many coalition troops do we have, of the willing? I must add. Well, that is kind of hard to gauge also. Well, what is going to be our future for us, leave alone 12 months from now, but 6 months from now? Well, that is all so hard to predict. We are at the U.N. now trying to put together, and they talk about this coalition of countries, but the coalition of countries of the willing, they are few. There are very few countries that have come forth that have put real people and real troops on the ground. Why would they want to put troops on the ground when this administration is not willing to give up some of the decision-making in Iraq?

The gentleman from Maryland hit it right on the head when he spoke so eloquently just moments ago by saying that if there is terrorism throughout the world, we cannot solve the terrorism problem throughout the world by ourselves. We do not have the money. Can I say that again? We do not have the money to be able to spend the millions, no, billions, and we are about to get to trillions, on borrowed money.

Some of the things that have taken place are just ironic. I am so glad the gentlewoman from California (Ms. PELOSI) and her staff and others have gone forth to really look at the kitchen table questions, like the gentleman from Maryland mentioned. We are looking at the cost of them wanting to build two prisons over in Iraq, 4,000-bed prisons, $50,000 per prison bed, when we build prison beds right here in the U.S. for $26,000. What is the difference? Once again, we look at just the issue of communications. $6,000 per radio phone. The Bush administration has requested $1.3 million for 400 hand-held radios, when here we can go down to the local Radio Shack and buy the same thing for $54.99.

So when we start looking at, as we finally get outside of them saying this is what we want, do not ask any questions, because if they do not answer our questions, I say to the gentleman, then when will the questions be answered? Should we just write the check and say, okay, we are patriotic, God bless America, and Mr. President, we love you, and Mr. Rumsfeld, we trust you? At no other time in recent history has the Department of Defense taken on the rebuilding of a society which we have gone into and have conquered in a battle, which the President brought us into several months ago, that the State Department does not have a say in this. The Department of Defense is still there, so we are still at war.

Mr. Speaker, I look forward to continuing this conversation.

Mr. CUMMINGS. Mr. Speaker, before I yield to the gentlewoman from Texas (Ms. JACKSON-LEE), the gentleman from Florida said something that really hit home. I too thank our leader, the gentlewoman from California (Ms. PELOSI), for all of her hard work and the work of her staff. When we look at some of the information that we have been looking at here lately with regard to this whole $87 billion, it is very interesting to know that that $87 billion can do a lot of things with regard to our education system. Mr. Speaker, $87 billion will hire 2 million new teachers. That is a lot of teachers. And we could spend an additional $1,824 on each child in American public schools. We could spend seven times more than the President's proposal for title I education programs in fiscal year 2004.

The reason why we are bringing this up is because we want people to understand that we just spent about $80 billion a few months ago, and now the President is talking about another $87 billion. And again, one of those kitchen table questions is what should we expect in the future, Mr. President? Will you be coming back to us asking for some more money?

Some people look at it and say, oh, you are attacking the President. It is not about attacking the President. It is a question of accountability. What we want the President to do is be accountable.

Talking about accountability, the gentlewoman from Texas (Ms. JACKSON-LEE) serves on the Committee on Homeland Security. I know the gentlewoman has a number of comments she wants to make. But when we look at what we are doing with homeland security, we are very concerned about homeland security. I get complaints, and I am sure the gentleman from Florida (Mr. MEEK) does, from our mayor and our local fire departments about the fact that they do not have the kinds of things, the equipment they need to really be true first responders. I just was wondering, how does the gentlewoman see this $87 billion request with regard to homeland security?

Ms. JACKSON-LEE of Texas. Mr. Speaker, the gentleman raises a very good point. I am very pleased to join my colleagues, and I thank the gentleman from Maryland (Mr. CUMMINGS), the chairman of the Congressional Black Caucus, for addressing this crucial issue. We are grateful for the expertise that the gentleman from Florida (Mr. MEEK) brings to us on this issue, as a member of both the Committee on Homeland Security and the Committee on Armed Services.

But the gentleman has really hit the nail on the head. If I might build up to that answer, because when we hear where we are in terms of dollars, and it was so good for the gentleman to cite teachers, because 2 days ago a distinguished colleague of ours down on the floor of the House said that each child starting school in Iraq, and I applaud the fact that these children are starting school, would have a book bag to take to school. And I applaud that, I say to the gentleman. But the gentleman from Maryland mentioned teachers. I do not know how many of our young children in some of these inner city districts or rural districts are given a book bag or even books, each child, to take with them to school. This does not diminish the need in Iraq. But I think what we are trying to explain to the American people is this is about choices.

Just to let my colleagues know how we are giving away money, and I am going to add some more money on top of the $87 billion, is that we passed a continuing resolution a couple of days ago, a CR. What that does, because we have not met our obligations, and the majority is in charge, the Republicans of the Senate and the House, that means that we will spend an extra $2.2 billion more than the 2004 funding limit because we have not yet put in

place and finished all of our appropriations and we have a CR. The CR accomplishes this feat by shifting $2.2 billion of previously appropriated 2004 education funding back to fiscal year 2003. It is sort of a gimmick. So we have $87 billion, and now we are spending an extra $2.2 billion. We do not know where that is going; it is just sort of filling the gap to keep us going.

One of the reasons we are doing that is because even as the President is asking for the $87 billion, he is not rolling back this tax cut that we have given to 1 percent of America's richest individuals. So we are spending $1 trillion to pay them, and we are asking for $87 billion.

Now, let me contrast that with homeland security. The gentleman is absolutely right. In this last budget, we were between 59 and $79 billion for homeland security, leaving out, however, many of the issues that my colleague, my good friend, we discuss all the time. We are not up to par where we need to be in cybersecurity. We had one of our very fine representatives of the Homeland Security Department come and testify in the last 10 days and said, I need a Department of 800 persons. I have only 200 that are staffed up at this point. My local communities, police, and fire departments have already indicated, and I am talking about across the Nation, police and fire, that means sheriffs, constables, are still waiting for those direct funds to help them with the extra dollars that they have expended responding to our color alert. They responded to our color alert and have billed on the overtime for responding when we have upped it to an orange alert, right short under red alert. So the gentleman asks a very good question.

Let me throw all of this up against this backdrop, which is, I believe, we should bifurcate and vote separately on the resources necessary for the troops. Because the gentleman from Maryland said it, and I think the Congressional Black Caucus has been very clear in everything that we have said, because our constituents are those on the frontline. We have been very clear. We support them. We support their families. In fact, we have been on the frontline about where are the benefits for these troops that are returning home; where are the veterans benefits; where are the mental health and trauma dollars that we understand Fort Bliss in Texas are cutting back on mental health services that are needed for returning troops.

But let me just say this: the $87 billion, I have been told, is the largest supplemental request, supplemental, because this is not in our normal budget, supplemental request in history. It totals more than the seven smallest supplemental bills that we have funded over the last term of this Congress. It is more money than we spent in Vietnam. Tragically, 50,000 of our young men and women lost their lives there. But it is more money than we have spent in Vietnam, including all of the defense appropriations during that era from 1965 to 1975. It is more than that.

Our good friend, the gentleman from Florida, made another point. Because as the gentleman well knows, we have had a series of discussions, and there was a set of principles that I sent out, and I think our good friend from Florida, the distinguished gentleman from Florida, said it and the gentleman from Maryland said it: the President made a commitment to go to the United Nations. I was in New York when he spoke before the General Assembly, waiting for sort of the olive branch to encourage our allies to give the big dollars that we needed to truly make a dent. Just like President Bush One in the Persian Gulf had a real coalition, whether we agreed or disagreed with the war, the total spent in that war was $62 billion; and the United States spent only a total of 7.5 in the Gulf War, where hundreds of thousands of troops that included troops from all over the world were in that war.

So what we have here is a failure of the President to heal the rift, so that we can sit down and get an extended commitment of dollars. I think $234 million is a pittance compared to the $12 billion that would truly have an impact on the $87 billion.

□ 1845

So let me just finish because I see my friend, the gentleman from Florida (Mr. MEEK), has a point to make.

Mr. MEEK. I say to the gentlewoman from Texas (Ms. JACKSON-LEE) the unanswered questions are huge. These are not just small unanswered questions. We talk about deficit spending. I want to remind Americans that we are talking about borrowed money. We are not talking about money we have in our pocket. We are talking about borrowed money.

Quickly, there is still not an accounting for the $80 billion that we passed out last spring, that we entrusted to the administration, as it relates to the deployment of 30,000 troops and reserves from their homes.

Also, Secretary Rumsfeld, who I must say is getting very irritated with the fact that people are asking questions, he had a press conference today and chastised the press and said they are not reporting about the good things the Members of Congress that went over to Iraq had to say about what was going on. Well, you know, that is fine. We have gone to the region. The gentlewoman from Texas (Ms. JACKSON-LEE of Texas) and I, we have gone to the region. That is fine. That is okay for him to have some concern there. But do not get upset with the press.

We are getting down to the nitty-gritty of saying, Mr. Rumsfeld and President Bush, you have got to let us know what is going on. If you can be accurate on 56,000 Iraqi soldiers that our military are training and 4,000 police officers that have been recruited, the figures that he gave this past Tuesday, but he cannot give us a count on our own soldiers, something is wrong. These are unanswered questions.

The administration, as it relates to the fine print on contractual services, remember we have $20-plus billion in this request in the rebuilding of Iraq, and the administration is saying, you know, do not put any language in the bill that will tie our hands so they can continue to give sole-source contracts.

Now, we all know, as lovers of public education, as lovers of what we have to do to even make our homeland safe and children ready to learn when they get in school, think about how many Head Start programs who have to go through yards and yards and stacks of paper to prove their funding. I think it is important, Mr. Speaker, that we have that fine print there.

I am glad the gentlewoman from Texas (Ms. JACKSON-LEE of Texas) talked about the numbers. We are taking a credit card with a very high interest rate and paying for this so-called ''trust me'' without the help of the rest of the world. The last time the President went to the U.N., Mr. Speaker, I must add, and left with the kind of reception that he got, which was a bad one, we ended up by ourselves. And we are by ourselves now.

Ms. JACKSON-LEE of Texas. If I could just finish and build on what my good friend said. He is absolutely right. I mean, the lack of interest, unfortunately, in the presentation made by this administration to the U.N. in the last 10 days, when all of the world was watching and all of the world was there and at least seemingly wanting to provide the kind of broad coalition which would be the key to the aftermath of Iraq, we did not rise to the occasion.

So I think this idea of voting separately for the rebuilding which allows us to then rebuild the friendships and move that dollar amount up from $234 million, that shows that that is the result of an unhappy group of allies. We realize that these are all issues of permanence and all friends are tentative, but I think there is a common interest that we want to make sure that the region is secure and the region is stable. Even we are not doing that by having the kind of negotiations that this administration needs to have.

Let me conclude by saying this: We have to support the troops to the extent that they are on the front line. So it is imperative that the document that the gentleman from Florida (Mr. MEEK of Florida) was holding up is a document that has gone through a fine tooth comb.

Because what we find the greatest failure in Iraq being, besides not finding the weapons of mass destruction, as David Kay has now come back and indicated that even his team of 1,500 have not been able to document the basis upon which we say we went to war, and the fact that we were told that we were about to be imminently attacked, so that is clearly something we should pursue, but we are now there and we

are told, and I guess my friend has more of these facts because I think he was raising it, that our very troops do not have the kind of ammunition, armor, and equipment that they need to do their job.

How in the world can the Secretary of Defense be insulted by media questions? He should be here before us, before any committee of jurisdiction or a caucus of Members who have the responsibility to ask these questions for their constituents, to answer these questions.

Let me list them: Portable jammers. What does that mean? It means that those of you who are trying to, using my own term, de-explode a land mine, do not have to go up to it to do it. You can stand back and do that. That causes less of a loss of life.

A non-broke-down Humvee. We see the ones that the kids of the rich are driving, but this is a serious vehicle, broke down.

And then the other one is body armor.

These are the hard questions that I believe this special order is generating. I am grateful that we have the opportunity to dialogue on this, and I hope that our colleagues and the administration realize how serious we are in these questions and how impossible it would be to vote for the $87 billion under these circumstances.

Mr. CUMMINGS. I want to thank the gentlewoman from Texas (Ms. JACKSON-LEE of Texas).

One of the things that certainly concerns all of us and the last thing that was just talked about is our troops being properly equipped. That is why I said we are not asking rocket-scientist questions. What we are asking are basic questions that any person would ask in their family if they had a serious issue at hand. And I tell you, if your son or daughter came to you and said, mom, I got an emergency, you gave her $80 to deal with the emergency; and then she came back and the emergency still was not dealt with, or you asked some questions about it, you are going to ask the question, what happened to the money I gave you? This is basic stuff.

So the more we look at what has happened here with the President, it seems as if the President does not want any questions asked. That is crazy. I mean, that does not even make sense.

So what we are trying to do, we want to make sure our troops are protected and make sure when they go out on that battlefield in 100-plus degree weather that they have everything they need, and we want to make sure at the same time that if we are going to be about the business of rebuilding Iraq, we would like to have a separate vote. Let us vote on the resurrection of Iraq and let us vote on the support of our troops and let us have accountability.

Speaking of accountability, the gentlewoman from Washington D.C. (Ms. NORTON) has consistently addressed this whole issue of accountability. Being here in Washington D.C., and I do not say the capital of the Nation because, actually, it is the capital of the world, we certainly saw what happened on September 11; and when you talk about first responders, we have to make sure that it starts here.

Ms. NORTON. Mr. Speaker, I appreciate that the Members understand the vulnerability we feel here in the national capital. The gentleman from Maryland (Mr. CUMMINGS) is in this region as well. And, of course, there is almost no attention being paid to vulnerability at home. I am on the Select Committee on Homeland Security, and I can tell you that those issues have been moved off the screen by what is happening in Iraq, by this $87 billion request.

I want to thank the gentleman from Maryland (Mr. CUMMINGS) for coming forward this evening to continue this dialogue in the way he is continuing it among the members of the Congressional Black Caucus. I thank the gentleman from Florida (Mr. MEEK of Florida) and the gentlewoman from Texas (Ms. JACKSON-LEE of Texas) for the repartee and colloquy that they have.

I see I have two of my good friends and sisters who need also to be able to speak before our time is up, so I will try and have consideration and bear that in mind as I speak briefly.

I want to congratulate my colleagues. I heard some of their colloquy on the troops. I am tired of talking about the war. I want to talk about the people who are being forced to make this war. Yes, they are volunteers, but none of them, none of them expected and indeed none of them were promised what has happened to them now.

We of the Congressional Black Caucus are concerned. A third of the U.S. Army is African American. About 20 percent of the armed services are all over, but when we speak about troops, we are talking about the American men and women who are in Iraq. I am saying, Mr. Speaker, they are not just in Iraq. My God, one begins to wonder where are they not? We are still in Europe and Japan. How long ago was World War II? When did the Cold War end? Nobody is talking about burden sharing anymore, about pulling them out. Korea. I guess most of the Congressmen were not even alive. Nobody is talking about going home from there. We are in Philippines, Bosnia, Kosovo, the Sinai Peninsula, Liberia. This is all that has come to mind. I have not done the encyclopedic rendition of where we are.

I am very, very frightened for my country now. Because my country is overly dependent on what we have come to call the weekend warriors. We know who the weekend warriors are. The weekends warriors are not your daughter and my son. They are not the folks who can go to college. The weekends warriors are the people who, knowing full well they may have to go abroad to fight a war, nevertheless had no expectation, for example, of having 6 months turn into a year and then come back and have to go again.

They want more troops. They say more foreign troops. They do not have enough troops to fight this war. They say foreign troops because they do not want to tell the American people the truth: They need more folks. We know from what has happened at the U.N. they are not going to get them from France and Germany. We are paying for the troops that are there from other countries already, so we are getting no financial relief. There are drips and dabs from other parts of the country.

Where is the pool going to go come from, Mr. Speaker? There is no place else for it to come from. It is going to come from the people who are now supporting their families here that have not been called up yet. The people who are in the Reserves and in the National Guard, largely for financial reasons, and are now becoming the blood and guts of the Armed Forces.

Mr. Speaker, I do not believe, and I think it can be easily proved, that this notion that we talked about endlessly of being able to fight two wars at the same time is any longer the case. We are hardly able to fight Afghanistan and Iraq at the same time, and there were howls about how Afghanistan was being neglected.

I defy anybody to tell me if a major war were to break out somewhere else in the world today how we would be prepared to go even a fight that war. But that was always the paradigm. We could do that. Because we invaded Iraq, a war of choice, that was unnecessary, we can no longer do that.

Mr. Speaker, I just want to say why a country, not simply we who feel for the troops, should be concerned about this. For the Active Duty and the Reserves thus far, there have been no particular impact of this war; and the reason the analysts tell us is there is no impact is the bad economy. People are, in fact, still joining the Active Reserve and Active Duty because they cannot get a job at home. Thank you, Uncle Sam. What you are not providing in America, people are getting their job risking their lives in the armed services.

But watch out for the National Guard. The National Guard is already 20 percent down on meeting its goal for the year. I ask you, Mr. Chairman, do you think the average person seeing National Guard targets in Iraq would now sign up to be in the National Guard? Moreover, the parents and the relatives of those who are there now say that, in the units where their husbands are fighting, three-quarters of the unit is going to go as soon as they are able to get out.

Who is going to fight the wars at all if going into Iraq means nobody wants to be in the Reserve anymore, nobody wants to be in the National Guard?

□ 1900

Mr. Chairman, did you know that you cannot get out now when your time is up because there is something called the Stop Loss for mobilized units? So your time is off. You signed up to X date; X date is passed and you are still in. Last time I looked, that was called a draft, and yet these are supposed to be volunteers.

Finally, Mr. Speaker, let me indicate a particular outrage that came to public note only this week. I do not know if I were to ask the average person what employer do you think has the largest number of Reservists? And I think people might think of AT&T or General Motors. Mr. Chairman, it is the United States Government. There are 65,000 Reservists who are employed by the Federal Government, people who serve their country in a civilian capacity, serve their country as a Reservist, the single largest employer in the United States is Uncle Sam, and so it should come as no surprise that we would have more Reservists. I did not realize until recently that 48,000 Federal technicians, there are 48,000 Federal technicians who are required to be members of the National Guard as a condition for employment by the Federal Government. So you would think that we would do what we could having so many of these Reservists.

We are not among the 200 private sector employers and 50 local and State governments who make up the difference in pay between what they earned on the job and their military pay. We are not among them, although many State governments are and many private employers are. So we have a chance to close that, to say we realize there is a war no one expected to fight. We realize horrific things are happening to families, so let us do what large companies do.

Instead, this week we learn that there was no chance, indeed, the defense appropriators in conference indicated that there was no chance that there would be a provision to close the gap that the civil service employees who have been called to active duty face. It was being considered by House and Senate negotiators working on the fiscal 2004 defense authorization bill, and word came on Monday that provision is dead, and they said it costs too much money.

Let me tell you what is too much money to make up the difference, the huge financial sacrifice to families would have cost over 5 years, $160 million dollars. We are talking about $87 billion. The notion that we cannot find in the huge defense budget, $160 million to do what 200 private companies do, to make sure that the sacrifice which is already horrific because you are already in the first place, would not come in dollars and cents to you and your family. So I say shame on you, Congress. Shame on the conferees for coming to the floor every day that this Congress is in session to talk about the troops. And when time comes to put up or shut up for the troops, they shut up.

Mr. Chairman, I want to invite one of my sisters to come forward now who has not had an opportunity to speak, and I would like to thank the gentleman for his leadership on this special order.

Mr. CUMMINGS. Madam Speaker, the gentlewoman from California (Ms. LEE) has just spent a phenomenal amount of time along with the gentlewoman from California (Ms. WATERS) on the whole issue of AIDS.

It is just interesting, again, we are trying to do a number of things this evening, but we want to put this $87 billion in context. Before the gentlewoman comes on, I just want to note that with $87 billion, we could spend 27 times more on AIDS research than the Federal Government spent in fiscal year 2000. We could spend $226,000 on each individual AIDS patient in the United States, and we could fulfill the President's promise of $3 billion for funding for AIDS in Africa this year and have enough left over to make a similar commitment for 28 more years.

Ms. LEE. Madam Speaker, I thank the Chairman.

Let me commend the gentleman for his leadership and for insisting that the voices of reason really speak out in terms of organizing these speak-outs, and these special orders for the Congressional Black Caucus to really talk to America about the critical issues. And, of course, tonight under the gentleman's leadership, we are talking about this $87 billion that Congress is about to appropriate in the next couple of weeks as it relates to the war in Iraq.

First of all, let me just say that I am the daughter of a military officer, 25 years, much of the time was spent in Fort Bliss, Texas. In fact I was born in El Paso, Texas, and so my support for the troops is very deep, and I understand very well the issues with regard to what makes sense in terms of the real deal in supporting the troops.

Our troops need all of the protection that they can receive, that we should provide. They need their benefits. They need their survivor benefits. They need their health care. They need the respect. They need all of the budget items that I do not really see in this $87 billion. I do not even know what happened to that, what, first $78 billion. Why would our young men and women need such items as toiletries. Why would they have to pay for certain items such as food at the hospitals? Why would they not receive their full retirement benefits? And all of the issues that we are talking about tonight, that first $73 billion, I believe it was, what was in that? Was not that enough? Then you look at the military budget in total, what is that, $400 billion or close to $400 billion. We have got missile defense in there now. What is going on with this budget?

I think first of all, we should demand some accountability, and I think that is what, in fact, the principles that I want to applaud the Congressional Black Caucus for putting together really enunciated. Where is the accountability for the taxpayers' money?

With regard to what was mentioned earlier in terms of the whole HIV/AIDS pandemic, we negotiated a measly $3 billion a year. We cannot even get over $2 billion yet. We have asked the President just to live up to his commitment. Over 100-some Members of Congress wrote a letter requesting the additional $1 billion in the supplemental. We get a response that I do not even want to talk about it. It is pitiful the response we received.

Today we talked about Liberia in our Subcommittee on Africa and the development efforts and the stabilization requirements in terms of resources, minimally $200 million. We cannot even figure out where that is coming from. I say we need $500 million plus. I do not see that coming around. How do they find $87 billion and cannot find $1 billion for HIV/AIDS in Africa? So I think we need to do this, and this is what the gentleman from Maryland (Mr. CUMMINGS) and the Congressional Black Caucus is really exposing, what is really going on.

I think that is what is really going on, of course, we know in terms of this entire effort to build a country. I personally believe that if we bomb the heck out of a country, we have some responsibility to fix what we damaged. Beyond that, in terms of long-term development, when you look at Halliburton and Bechtel and contracts that are no-bid contracts, money is being made as we speak and will be made, profits, lots of money in terms of the development of a country, the construction of a country.

Here in our own communities, what are we looking at? We are looking at dilapidated schools. We have 44 million uninsured. No health care. In my own State of California, I think we are up to seven million now uninsured. Dilapidated housing, unaffordable housing. What is happening in terms of jobs in our own country? What? Three million plus unemployed now. So when we look at $87 billion, I think that $87 billion could be used right here at home.

Now, having said that, let me say that I believe also that in supporting our troops, we support them by bringing them home, but we also support them by developing an exit strategy, a time frame, a point in which they know they will return home. And during this transition period, we are required and should make sure that they are safe and secure. But how can we give this administration, any administration a blank check to engage in guerilla war in perpetuity. I could not support it the first time around, the second time around, and the third time around. And this is another payment now, another quarterly payment I guess on what could end up being $400, $500 billion. I think that is outrageous.

I think the American people deserve some answers to why in the world, first of all, I must say why did we go to war?

And I think that we should stay here until we figure that out and demand investigations as it relates to the weapons of mass destruction. I mean, I think that is very important to know. And so we are going to insist that an independent commission be established or the select committee be established to investigate all of this. I do not think Congress should recess until we know what happened. I think the American people deserve answers.

This is our Government. We pay taxes and, of course, we want to make sure that each and every dollar we spend goes in terms of peace and security.

Let me just close by reading a quote from Dr. King. Often times we quote Dr. King and extol his virtues. He was a prophet and a visionary, but many only do that during January, but I think we should remember Dr. King's message each and every day. I want to read this quote by Dr. King who gave us this message in the 1960s. Dr. King warned us, he said, ''In the wasteland of war, the expenditure of resources knows no restraint.'' No restraint.

Dr. King knew that war would be, could be, is a bottomless pit in which this great Nation could pour all of its resources, all of its young people and really never come out safer or stronger.

Mr. Chairman, I want to commend the Congressional Black Caucus today for remembering Dr. King and remembering his words of wisdom. He died for what was right, and I think we have a duty and responsibility as it relates to going to war, the use of force, $87 billion worth of taxpayers' money. I think we have a duty and a responsibility that we make sure that our troops are safe, that our young people are secure and we develop an exit strategy so we know they will come home.

Mr. CUMMINGS. Madam Speaker, how much time remains?

The SPEAKER pro tempore (Mrs. MILLER of Michigan). The gentleman from Maryland (Mr. CUMMINGS) has 12 minutes remaining.

Mr. CUMMINGS. Madam Speaker, I would like to say that the gentlewoman from California (Ms. LEE) just raised an issue.

The gentleman from Florida (Mr. MEEK) is on the Committee on Armed Services. I was wondering briefly, have we heard anything about an exit strategy or how we define success in this from anybody?

Mr. MEEK of Florida. Not at all. And not only has that information not been given to the Committee on Armed Services, but it has not been given to the committee in question that they are asking the money from, that is the subcommittee, the Subcommittee on Defense and also the full Committee on Appropriations. That question has not been answered, neither in the House nor the Senate.

I must add also that the gentlewoman from California (Ms. LEE) hit on so many points. The real question is if we vote or vote against the $87 billion, are we supporting the troops or are we supporting the President with cowboy politics, with his cowboy politics? That is the question.

So when folks say, I have to vote for it to support the troops, of course we want to support the troops, but the troops are not at the UN. The troops are not coming before Congress and saying, Ask no questions or we question your patriotism.

The gentlewoman from the District of Columbia (Ms. NORTON) came in here and said, What about the individuals that are right here? There are families right now watching us here on this House floor, and there are family members over in Iraq, meanwhile, they are behind in their house note. Meanwhile, the story cannot be read by mom or dad because they are in Iraq.

So if we give the $87 billion plus, I have to add that, to this Bush administration, then we are saying that we condone the President going to the UN and not asking nicely for help. We condone individuals that are going to be in Iraq for some time.

Ms. JACKSON-LEE of Texas. Madam Speaker, if I might just add this point as our colleague comes forward. The gentlewoman from California (Ms. LEE) made a good point on that. First of all, we need to stay here until the President gives a real exit strategy because what we see is that the administration has no exit strategy. So the gentleman is absolutely right.

□ 1915

We need to stay here in session and not only stay here in session but have the committees of jurisdiction, the relevant committees and this body have the time to deliberate and debate so that we are responsible to those families that are over there.

The other thing is we are absolutely right that we should not separate out how we got there, whether it was weapons of mass destruction, imminent attack, and say that is bygones. That is behind us. We have lost lives. There are children, and forgive me for calling them children. There are young people. They are enlisted persons. They are National Guard. They are Reservists. They are our constituents in these hospitals, Bethesda and Walter Reed, with amputated limbs and with missing eyes; and they went to war on the basis of imminent threat and homeland security.

Now they are telling us that, one, they have no exit strategy, and, two, we should not ask any questions, and, three, weapons of mass destruction, that is the bygones. We do not need to talk about it. We need to stay here and question David Kay extensively on his report, no weapons of mass destruction; and by the way, 1,500 people were the ones under his team that went over there, and, two, we need to have the administration not give us classified information but give to this Congress a designed, defensive exit strategy. Lastly, we need to know line by line how these dollars are going to help the troops and how we are going to bring them home.

Mr. CUMMINGS. The interesting thing is that I think one of the most brilliant moments since I have been here is the few weeks before we went to war, and I think just about everybody who was on the floor tonight came up, and we talked about the war. We talked about the principles and we asked the President to meet with us, and he refused to meet with us; but we wanted to raise those key questions, and I think it does have relevance to a degree of what happened before the war and the fact that no weapons of mass destruction have been found. I think what it does is it should cause us to say, well, if we went to war on that basis and weapons have not been found, then why is it that we should just sit back and not at least question how we go further into this venture? I think it is important that we do that; and as I said, these are the basic questions.

That night, I will never forget the gentlewoman from California (Ms. WATERS) stood up and gave probably the most brilliant speech I have ever heard, talking about why we are going to war, and literally did a wonderful job in just laying out her rationale; and I would be happy to yield to her, but I believe she will come back just after we finish.

I want to thank my colleagues, and now I yield to the gentlewoman from California (Ms. LEE) because I know you had a lot of concerns. I do not want to go back and rehash a prior war, but I just do think it has relevance because, again, we were told and I think the caucus was trying to raise the issue back then that we questioned whether or not we should be going to war, whether we should have more patience in looking for these weapons. We felt the things were working well, maybe not at the pace the President wanted them to, but at least we could have avoided the loss of life.

Ms. LEE. Madam Speaker, if my colleagues remember, we consistently said that the inspections process was working, that weapons of mass destruction would be found, and when found, if they were found, we would make sure, the U.N. would make sure, that they were destroyed. It was a search and destroy mission. Containment was working, and I believe that it is very, very critical at this moment, at this really truly defining moment that we understand that this foreign policy doctrine of preemption, the use of first strike based on a perceived future threat is a very dangerous policy.

The President has the authority to use force in the event of an imminent or immediate attack. That is not a question. The point where we are now in our country I think is very dangerous, and we set the standard for the rest of the world in terms of our foreign policy. If it is okay for the United States to use force first, then it is okay for North Korea or it is okay for Iran,

it is okay for any other country; and so I think that this is a moment where we must go back to the drawing board, I think reevaluate our foreign policy, and reevaluate the axis of evil concept because I believe that it is provocative; and I do not believe that we are any safer, that this course that we are on and that policy will not lead to more security. I think it is very dangerous. It does not lead to peace in the world.

I want to thank the Congressional Black Caucus for making sure the American people know there are many of us who believe that.

Mr. CUMMINGS. One of the things that was so interesting, I shall never forget at the State of the Union address, if my colleagues recall, there was a part of the speech the President made that showed over and over again on the television, when he said that we in our generation right now must take care of this situation and that we should not leave it to future generations to address terrorism and what have you. Basically what he was saying, too, is that we should be paying for it. It is going to be impossible for us, the living, to completely pay for this war. This war will be paid for by our children and our children's children and our children's children's children; and when we look at this $87 billion again, one wonders where does it end, and that is why this whole question of exit strategy is so very significant.

How do we mention success? At what point do we say, okay, we have done the job, we have accomplished what we are supposed to accomplish?

I just thank the Congressional Black Caucus for coming together this evening and constantly over and over again being that conscience of the Congress and I would say the conscience of the country; and I will yield to the gentlewoman from Texas (Ms. JACKSON-LEE).

Ms. JACKSON-LEE of Texas. Madam Speaker, my colleagues mentioned the human factor, and I want to take us back briefly to the Vietnam War because we know that many of our contemporaries and others, people that live in our neighborhoods, maybe some of the homeless men that we see in the streets of our cities and I do not think the Vietnam veterans would mind us expressing their plight because they come to me all the time, and I want to make it very clear that there is not one whose support that I diminish, that I take away from them because of this war or that war. They obeyed orders. They took the oath. They offered themselves for my freedom.

But we are reminded of the Vietnam War, and I see a lot of the brothers of all colors, shapes, sizes. I have spent Christmas days with them, as my colleagues all have, in homeless shelters, the aftermath of that war, the pain of that war, the pain of being subjected to guerrilla warfare, the pain of not knowing who the enemy is or was, and so they do not want to be caught up in shooting the wrong person. I am fearful without an exit strategy, and I think the gentlewoman from California (Ms. LEE) mentioned that this guerrilla warfare, not knowing who the enemy is and then not having an exit strategy, so not having a definitive time certain to come home to your loved ones.

And then when you come home, what I am hearing is that we have got to cut mental health services on the bases, so that means the traumatic experiences that families are having, where are the counselors? I am hearing, as was said, that we are paying for meals in hospitals. I am hearing that veterans services are being cut. I am hearing that these young men or women returning may not have the ability to go to college because Pell grants are being cut.

What are we saying to these young people coming back, no jobs, families in distress, families maybe in disarray? I am not condemning. You may come back and the family was strong and they welcome you back. What about the mourning parents who are mourning the loss of a 19-year-old, who just want some connection? They are no longer connected to the military. I do not know what they do with military families who have lost a loved one, and so I think what you are doing here tonight is so crucial because we are asking questions that apparently they are trying to cover up, hide or they are not putting the human face to.

She is not here, but I just want to say the gentlewoman from California (Ms. WATSON) recently visited one of our wounded individuals. She said that person lost their limbs and was blinded in one eye. That is the human face, why we are here tonight and talking about this issue.

Mr. CUMMINGS. Madam Speaker, I yield to the gentleman from Florida (Mr. MEEK).

Mr. MEEK of Florida. Madam Speaker, quickly, I just want to make sure Americans understand, be very quick, you need to look at your children and you need to look at your grandchildren. The administration is saying ask no questions. They are spending their future away. If your child's class size is 30, now look for it to being 50 because this government will continue to cut back so local governments will be in deficit spending.

Right now the States are $70 billion in deficits and that will continue. So I am not looking forward to doing things on a credit card. I am looking forward to doing things the way we are supposed to do and govern, and when I hear the President say we need to fight the war on terror in Iraq and not here, being in Iraq has nothing to do with fighting the war on terror in the United States.

Mr. CUMMINGS. Madam Speaker, we merely say to the President, be accountable, be accountable. I thank my colleagues very much.

SETTING THE RECORD STRAIGHT

The SPEAKER pro tempore (Mrs. MILLER of Michigan). Under a previous order of the House, the gentlewoman from California (Ms. WATERS) is recognized for 5 minutes.

Ms. WATERS. Madam Speaker, I came to the floor this evening to join my colleagues and hoping to educate the American public about what is going on with our government and what is happening with the request for $87 billion to continue the war in Iraq.

I think it should be very, very clear and I would like to set the record straight for myself. I will not support $87 billion to continue this war under any circumstances. I am very clear about that. As a matter of fact, I have been concerned. When it first came to light that the President was requesting $87 billion, I heard some of my colleagues in the other House say, we are going to ask him some tough questions; we are going to ask them all kinds of questions about what they did with the money that we appropriated before. But they all conclude by saying, but we are going to have to give him the $87 billion.

I have not and will not reach such a conclusion, a, because the President and his representatives, whether it is Condoleezza Rice or Colin Powell or Wolfowitz or any of the rest of them, DICK CHENEY included, they will come to this Congress and they will tell us whatever they think they need to tell us in order to get what they want. They have not been truthful in any shape, form, or fashion; and they continue to defend this preemptive strike and to mislead us about what they are doing.

Madam Speaker, I do not want anybody to say that because I do not support the $87 billion that I am unpatriotic. That old accusation has worn out. It has worn thin. The President and his representatives have threatened everybody with we are going to call you unpatriotic if you do not do or say what we want you to do or say. Well, I am not threatened or intimidated by that. I am not going to support $87 billion, and I am more patriotic than they are.

As a matter of fact, as I stand here tonight, there is a traitor in the White House, a traitor who has outed a CIA operative, placed a woman's life on the line because they chose to be vindictive and to get back at her husband because he, in fact, helped to reveal the fact that he was the one that had been dispatched to Niger to find out whether or not Saddam Hussein had tried to get uranium to further his efforts to build nuclear warfare; and because he told the truth, the ambassador told the truth, he simply said I told the CIA that, in fact, there was no evidence to show that there had been an attempt by Saddam Hussein to get uranium from Niger, but the President put it in his speech to this House and said in so many words and led the American people to believe that it was another reason why it was important for him to

have this preemptive strike. Well, there is a traitor in the White House. They are unpatriotic, and I do not want to hear them utter the word one more time about who is patriotic and who is not.

As a matter of fact, as we look at how we have been misled, we need to remind the American public over and over again that we support our soldiers. We are upset that they have not had the equipment to keep them safe and secure and all that we thought they had. Each day we are finding out more and more about that which they have not had and ways that they have been suffering.

We have been misled by Donald Rumsfeld. Donald Rumsfeld comes up to this House and gives us so-called classified briefings. We do not learn any more from him than we learn on CNN; and Members have been too intimidated to ask him the tough questions, to push him up against the wall and tell him when they think that he has been misleading us, but just take a look in the ways that we have been misled.

□ 1930

First of all, we must say over and over again, remember, they said they were going to do this preemptive strike because Saddam Hussein was harboring weapons of mass destruction. They have found none. There are none. I do not think they will ever find them.

But, of course, Mr. Wolfowitz said, we just told them that. He had the arrogance and the audacity to say, well, we thought that would be the best way to get support for the war. So they misled us, told us a lie, basically, that there were weapons of mass destruction.

And then they told us that they had drones. And these drones that were normally used for surveillance were equipped to deploy biological and chemical warfare. Another lie. The uranium lie.

I will close by saying we have been misled; we have been lied to. The American public should not feel mispatriotic. Do not support this war. Tell your Congresspeople not to spend $87 billion on this war.

FURTHER MESSAGE FROM THE SENATE

A further message from the Senate by Mr. Monahan, one of its clerks, announced that the Senate has passed a concurrent resolution of the following title in which the concurrence of the House is requested:

S. Con. Res. 71. Concurrent Resolution providing for a conditional adjournment or recess of the Senate.

IMMIGRATION AND IMMIGRATION REFORM

The SPEAKER pro tempore (Mrs. MILLER of Michigan). Under the Speaker's announced policy of January 7, 2003, the gentleman from Colorado (Mr. TANCREDO) is recognized for 60 minutes.

Mr. TANCREDO. Madam Speaker, I rise tonight to discuss an issue that often I bring to the attention of this body, and that is of course immigration and immigration reform, an issue that I think we spend far too little time discussing here.

I was compelled to come tonight to share an e-mail message I received just a couple of days ago. It is from a lady by the name of Rhonda Rose. And Ms. Rose speaks, I think, compellingly about a problem, a set of problems, that she perceives in her area. And I think she is not unique in this. I think she speaks for many Americans, in fact, millions of Americans. So I thought I would start tonight by sharing this particular e-mail message to me with my colleagues.

It says, ''My story: I live in a world where I do not count. I'm not a minority. I'm poor. I don't have coalitions rallying for what I feel is important. I don't have news reporters writing about 'poor me,' but I have views. I vote, I pay taxes, and I know there are millions of people in America just like me.

''I live next to a shelter built by politicians who are afraid to have an opinion about closing the border. Daily, 1,500 illegals come and visit that shelter. It was supposed to keep these 'poor people' from urinating and defecating on the streets. It didn't. My home and my vehicles have been broken into 22 times in 5 years.

''I stopped calling the police each time now that this happens because they do not come any more. Instead, we bought a gun. We scared off the last person trying to steal our truck. The only English he knew was enough to say 'sorry' as we pointed at him. Three months later we still have a towel over the smashed driver's-side window.

''Last week, I was ordered to pay an $85 fine for a false alarm. Police showed up for that hearing. The police couldn't find any criminal at my home when my home alarm sounded. I'm curious how long police think bad guys 'hang around' after an alarm has been triggered.

''I was involved in an accident in my car. The policeman said I would have to wait while he called for backup. My baby was screaming. The police had no film in the camera. The backup police had no fingerprinting ink or film. The person who ran into me was here illegally. He had a fake ID, but the police said there was nothing that they could do about it; the illegal alien would just get another fake ID and would never show up for court. He didn't have insurance. The illegal alien who hit me said sorry as he was walking away. He was free to go. I was free to pay the deductible on my car and the chiropractor bills for my children and myself. If I drove without insurance and hurt someone or their possessions, I would be forced to pay for the damages or lose everything I had.

''My husband works 6 days a week as a framing contractor. He pays FICA, Social Security, State taxes, Federal taxes, general liability insurance, workman's comp. insurance, and probably others that I don't remember. His workman's comp just skyrocketed from $5,000 per year to $28,000 per year. Now, I ask you, where are we going to come up with the extra $23,000? We had no claims. Should I take it out of my food budget? We often go weeks without meat. Should it come from our clothing budget? We buy our clothes at thrift sales and savers. How about our entertainment account? Does seeing a movie every month qualify?

''My home insurance costs me $100 more yearly because I live in a border State. How long before Kansas becomes a border State? I have had no medical insurance for years and years. I can't afford it. At 33, I got cancer. My doctor told me to go to ACCHS. I don't remember how to spell the State's medical system, since they declined me.

''My husband's company had no profit in 6 months due to theft and lack of laws at the time to force general contractors to pay. Without studying my receipts, I was declined. Interesting that hundreds of illegal aliens in this country standing in line were being given food stamps and medical care. They did not have Social Security numbers; they did not speak English. If you don't believe me,'' she says, ''look at the application DES.''

I am sorry, Madam Speaker, but I do not know what that stands for.

''Spend 5 minutes at DES and remind yourself why you pay taxes. You won't be smiling.

''Taxes. Well, we fell behind one year. I contacted the IRS and told them we wanted to make arrangements to pay. We now show the IRS everything we buy, from the female items to chewing gum, they see the receipt. For the next year we will be scrutinized. For the next 5 years we will be audited. Maybe I should never have done the right thing and told them.

''My son cries nightly because his legs and arms hurt. He has cried for almost 7 years. My husband often walks on one leg because his back and leg pain is almost unbearable. Monthly I have many strokes. During those times I lose the ability to speak well, and I have had seizures until I lose consciousness. We really don't know what is wrong with any of us. We may never know. We can't afford a doctor. God forbid we need emergency services. Thirty percent of the time hospitals are on divert status because there is no room. Illegal aliens have taken their kids to the ER for colds and sore throats. I would only go if I lost a limb or if my heart gave out.

''Two years ago, I announced to my family there would be no turkey for Thanksgiving. We would eat pasta and be thankful we were a family. My Catholic friend made arrangements for me to get a food box from her church. I went, reluctantly. I drove up in my broken old van and saw a lot of full new, stickers attached, Suburbans. My

van was the worst vehicle there and it hit me that I really was poor.

''I stood in line for 20 minutes amazed at the number of illegals taking box lunches and boxes of food. When it was my turn, I had to show an ID. I was told to leave. There wasn't enough food for me to take a box. I looked around. There were boxes of food everywhere. For a minute I forgot that I was not in a minority and in their eyes not deserving.

''At church, our pastor reminds us to stay hopeful. I struggle to make sense of a system that has taken from me and given to those who have more than I do. Who will be my voice? Where is my coalition? I thought it was the leaders of America. I was wrong. They have sold me out and millions like me. And what is worse, I do not know why. Rhonda Rose.''

Now, Madam Speaker, I think that Ms. Rose's situation is dire, but I think in many ways she says what many people feel. They feel, in a sense, disenfranchised. They feel that they are losing their own country. They feel that they cannot look to their own government for support or for help.

Night after night I come on this floor and I bring to the attention of the body stories of people who live on the border in Arizona, Texas, and California. I talk about the fact that these people are in many ways homeland heroes because their stories were not all that dissimilar from Ms. Rose's. Their lives have been essentially destroyed. Their businesses, homes, ranches have been overtaken by illegal aliens coming through by the hundreds of thousands destroying property, vandalizing, threatening, attacking; and they do not know why.

They are asking why this is happening now, when we have lived here for generations. Our family has been on this property for generations. We have always had people coming through here, sometimes illegally, or many times illegally, but only a few of them. And we would give them food and we would give them water and they would move on. But now it is by the thousands that they are coming through. And these people turn to the government for help and our government turns a blind eye to them. And so they get frustrated, as you would, Madam Speaker, and as I would.

So they write to their Congressman, and they talk to their neighbors, and they see no change. And they wonder why they do it. They wonder what is happening when they read polls that show that 70 percent of Americans are essentially on their side. And, Madam Speaker, I have to say to Rhonda that 70 percent of this country looks at this, listens to your story and is empathetic and believes that some change should be made, but maybe 25 percent of this Congress feels the same way. And I do not know who in the administration feels this way. But not enough people here feel this way, I will tell you.

And so we end up with a system that is unresponsive to the people; and anger grows, and resentment grows, and frustration grows. Because every day people see things like this. They pick up the paper and they read that another State has just decided to give illegal aliens driver's licenses. They see that foreign governments can distribute cards to those people living here illegally. These are referred to as the matricula consular card, and that States and cities are agreeing to accept these cards for a variety of services. Illegals can open bank accounts with these cards, they can obtain social services, they can even get driver's licenses.

In California, the most recent State to allow illegal immigrants to obtain driver's licenses, you can use a matricula consular to obtain your driver's license. How do you get one of these? You get them from a consulate here. Usually, the Mexican consulate. They are the ones that hand out the most. And what do you have to give them? You have to give them some documentation that says you are a Mexican citizen. Not that you are here illegally; but, of course, everyone who needs one of these cards is here illegally.

□ 1945

Madam Speaker, I want to repeat that. Every single person here in the United States who needs a matricula consular is here illegally because if you are here legally, you have a document that we have given you. You have a visa. You have a green card, you have a stamp on your passport at least. So an illegal alien in this country can obtain this particular card and with it can obtain all of the other documents they need to become essentially citizens, really, in a way.

It is a stealth amnesty program. American citizens recognize that. When they read it in the newspaper, they know something is wrong. They know something is wrong when a body agrees to give illegal aliens in-State tuition for which they have to pay. They know something is wrong when they hear that their jails are being filled by people who are here illegally and that the costs attributable to that particular phenomenon are enormous. They know something is wrong. They know that when they hear reports about people coming across the border by the hundreds, by the thousands without our permission, we do not know who they are, we do not know why they are coming, surely most of them are coming for relatively benign reasons, to get a better job, seek a better life, that is the reason that compels most people to come to this country, the same reason my grandparents came and perhaps yours, but among them are people who are coming to do very bad things to the United States and we allow this to happen, and they ask me, Why? They ask me all the time. I get all kinds of e-mails and letters and calls into my office and they say, Why, Congressman? Why is this happening? Why is it my Government has so little respect for my citizenship and for the fact I try my best to do things the right way?

This is another letter I received from a lady by the name of Linda Hendricks. She lives in my district. She says, Page 2 of this fax I am sending you is a copy of a Medicaid eligibility form. I want to draw your attention to question number 8. I turn to question number 8 on this form. Is anyone in your household a legal alien, yes or no? Is anyone in your household undocumented? Of course, what that means is are they here illegally, yes or no.

Next question: If yes to either, we will need the following information: If you are undocumented, no paperwork is necessary, and we will not report you to the INS. If you are documented in any way, please provide copies only of the front and back of your card and other INS papers.

Now, this is a form distributed by the Federal Government for a service that is supposed to be for American citizens: Medicaid. This is supposed to be the program that we have constructed to provide medical services to people who are financially unable to provide it for themselves.

She goes on to say, ''Hello, something is really wrong here. Illegals are not being reported and yet receive free medical benefits. There have been many stories in the Denver Post lately about people with serious medical needs that are losing their benefits due to cutbacks. These people are U.S. citizens. As a citizen myself, I believe citizens should have the benefit of medical care before those who do not belong here. I have a revolutionary idea,'' she says, ''quit giving free medical service to people who are here illegally and keep it for U.S. citizens and those who are here legally.

''I recently heard about a man here to work from South Africa who paid $3,000 for his green card, and yet when he got here, he found out that Mexicans are paying $100 for a fake green card. And with those fake green cards come all the benefits.

''No wonder our country no longer has any sovereignty, we are willingly giving it away.''

Madam Speaker, I just cannot fathom, I cannot imagine how these things are not taking a toll on the way people look at their Government. Believe me, these are not unique in any way, these two letters. These are representative of the thousands of letters that I receive almost weekly, and calls and e-mails and that sort of thing. It is happening everywhere. Looking at this makes me think there is a form that you can go to the Web site and find out from the Bureau of Immigration and Customs Enforcement, and it is called a temporary visitor visa, and you can go onto the Web site and pull it up and fill it out yourself if you want to come into the United States.

One question on that visa is are you a terrorist? Do you belong to any terrorist organizations? Have you committed any terrorist acts, yes or no. I do not know who answers yes, but evidently some people do because the next thing underneath it is a little asterisk, and it says do not worry, if you answer yes to this question, it does not mean that you will be denied entrance into the United States.

How can that be true? Well, it happened because a Member of the other body, Mr. KENNEDY, decided that because he had acquaintances that were members of the IRA, Irish Republican Army, and they might be on our terrorist list and they might want to come into the United States, that just being a member of a terrorist organization should not prevent you from coming to the United States, and so that is why we added that.

Well, as they say, people know this, people see this, people understand this, and people are frustrated by it. They are frustrated by the fact that their own Government will look the other way when people come into this country illegally, obtain this matricula consular, open up a bank account, let us say, and when the Treasury Department of the Federal Government promulgates rules saying that banks should be allowed to accept the matricula consular for the purpose of identification, and people look at this and think this is odd, that when you look at the fact that these rules were promulgated under the PATRIOT Act and designed to be rules to tighten up on banking regulations, so that identity theft and money-laundering activities would be minimized. When you realize that was the reason that those regulations were promulgated, they are asking how can it be that you are saying that you can do this? You can use this card given to you by a foreign government for the purpose of opening a bank account? People look at that and think what is going on with my Government.

They may know, I am not sure if many people know this, but they may even have heard that in the Committee on the Judiciary, the Subcommittee on Immigration in testimony there not too long ago, the Justice Department, the FBI, testified that using the matricula consular was absolutely a bad idea, and that people would, in fact, take advantage of it, that we cannot begin to guarantee the validity of the document. The FBI, Homeland Security, testified that we should not accept the matricula consular, that no agency of the Federal Government should accept it, and you have got the Department of the Treasury promulgating rules telling banks it is okay to accept it. People can get confused by that.

I believe it is simply a matter of pure politics, and the mother's milk of politics, of course, campaign contributions from large corporation through their executive officers who package up their contributions, and through banks and other big contributors to both parties, we find it difficult to do the things necessary to protect our own country.

We also, of course, fear the political ramifications of doing something to stop illegal immigration or even minimize illegal immigration. We find that this is a politically embarrassing thing. Even to bring this up on the floor of the House makes people uncomfortable. They would prefer if we did not address this issue because of the political implications.

When we recognize on one side of the aisle here, the Democratic party sees massive immigration, both illegal and legal, as a source of political support, future voters; on our side of the aisle, we see the same thing as a source of cheap labor; the administration sees the same thing as a potential source of voters for them, a wedge issue that they can use in the next campaign, and Members can see why it is difficult to actually get anything done.

That is what we have to tell people when constituents call and ask how can it be that this country has essentially decided to abandon its borders, surrender its sovereignty and attack the concept of citizenship because that is truly what is happening to us. All of the things that I have mentioned here, all of these things that are happening in States and cities and here at the Federal level, cities that are declaring themselves to be sanctuary cities, cities which pass regulations telling the police department not to provide information to the Bureau of Immigration Control and Enforcement or to accept information from them, cities that say they will accept the matricula consular for the provision of services, States that declare that they will give illegal aliens driver's licenses, States that declare that they will provide higher education benefits to people who are here illegally, all of these things combined are an attack on the concept of citizenship because if we have all of these benefits and are here illegally, and if you get a driver's license, you have the keys to the kingdom including the ability to vote under Motor Voter. So you have all of the benefits, including the ability to vote, but you are not a legal resident. What distinguishes you as an illegal resident of the country? What is it, absolutely nothing.

Today Members of this body were confronted by people that came here on a Freedom Ride. I understand buses and this trek started in States all over the Nation. People gathered all over and descended upon the Nation's capital to declare their concern for the plight of illegal immigrants in this country, and they wanted to associate themselves with the freedom marches of the 1960s, the precivil rights days of the United States.

□ 2000

They wanted to associate themselves with the plight of the African American who had suffered, who certainly his heritage was a heritage of slavery and who suffered degradations that certainly could never be countenanced; and so they called themselves the Freedom Ride. Remember, we are talking about slavery, an institution that brought people here against their will, and even after they were freed institutionally by law kept them from being able to achieve certain things and do certain things that citizens of this country were allowed to do, voting, for instance, and going to a restaurant and being served in the same place with a white person and going to the same school as a white person. All these things were being denied to these people who were here legally, whose parents had been here and whose family had been here for generations.

This was a travesty. This is a blight on America. This is a dark part of our history. Yet the people who came here today suggest that they have a common problem.

Today we have been visited, many offices in this body, in the House of Representatives, many Members have been visited by people who were here on what they call a Freedom Ride. They were here to put forward their concerns with regard to what they call the plight of those people who are here as immigrants, but what they really mean is here as illegal immigrants. Because if you are here as an immigrant, a legal immigrant into this country, you have all the protections available to you that any other citizen has. But if you are here illegally, you are oftentimes ill-treated and you are oftentimes taken advantage of by unscrupulous employers. Undeniably true.

So their solution to this problem was to give everybody who is here legal status, to simply give amnesty to all those people who have come here, make them legal residents of the country and then, of course, they have all the protection.

Yes, that is one way to handle it. But I suggest to you that it is the worst way to handle it. And I suggest that the idea, the public policy of giving anyone who has broken the law here a benefit for doing so is bad public policy, that no one should be rewarded for violating the law, and that no matter how compelling your story is about how long you have been here taking advantage of this country and this country's benefits, how long you have worked, that those are not reasons to simply ignore the law.

If we do not like this law, then it is up to us in this body to change it, to repeal it. If we do not believe in borders, then erase them. If we do not believe that people should come into this country with our permission, then stop trying to give it. But as long as that is the law, then we cannot simply ignore the fact that it is the law and give amnesty to everybody who ignores the law.

What sense does that make? The people of this country are asking the question. What sense does that make? And

they are asking us, why is it that my family had to go through years of applications, sometimes thousands and thousands of dollars in expenses to make the trek to this country legally, to wait in a long line, to do everything that is expected of us to come into this country as legal citizens, while at the same time you are considering telling everybody who came here illegally that they have all of the same benefits and all will be forgiven? What message does that send to the millions of people who are waiting to come into this country legally?

It tells them all they are suckers. That is what it says. And that they should, in fact, simply jump to the head of the line, come across the border, sneak into this country, get a visa, come in, overstay your visa, which actually accounts for about 45 or 50 percent of all those people living here illegally. They did not just come across the border from Mexico or from Canada. They actually flew into this country or came here somehow legally on a visa, then simply stayed.

All of those people, it says, did the right thing. They were the smart people. They avoided all the hassle, all the expense and all the respect for the law that we expect from the people who do come here legally.

What sense does this make, they ask, Americans ask? Can you answer this? Can anyone answer this? I cannot. It makes no sense.

Yet there are Members here who are going to produce a bill, who have introduced a bill already, that is, quote, getting legs, as it says around here, the saying goes, it is getting steam up, to give at least 500,000 agricultural workers amnesty under the guise of creating a guest worker program. What they do create is essentially an indentured servitude status for 4 or 5 years before they give them amnesty. This is great. This is wonderful, according to the sponsors of the bill.

And Americans ask, why? What can you be thinking of? How can you possibly be talking about giving amnesty to anybody who has come in? How can you talk about giving jobs to people who are essentially taking jobs from American workers?

Madam Speaker, all we hear of is, well, these are people who are doing jobs Americans won't take. That is, of course, only part of the statement. It is doing jobs Americans will not take for the price we are willing to pay. That is true in many circumstances. But we are also, of course, exporting jobs and bringing in foreign workers under visa categories, H1B and L1.

People ask me why? How come it is that when American high-tech workers are out of work by the millions, which they are, how come we are still bringing in hundreds of thousands of people in the H1B category to take those jobs? How come we are allowing other people, other companies, to bring them in under the L1 category visa and replace American workers with less expensive foreign workers? How come, they say? How come when these people come here many of them are actually trained by the person they are replacing? And in order to get severance pay the person they are replacing is told, you must train this person in your job or else we won't give you severance pay. How come, they ask, is this happening?

Madam Speaker, I cannot explain it. I do not know. I have a guess. My guess is that the high-tech industry contributes an awful lot of money to both parties and to the President and, therefore, we choose a cheap labor policy. That is my guess. Maybe I am wrong, and somebody could certainly dispute it. I am hoping someone will. But in order to dispute my claim, we have to at least have a debate on this issue. But we will not have a debate, because debating this issue makes people uncomfortable.

We are dividing this country up, Madam Speaker, into a lot of camps, victimized groups, groups that continue to hyphenate their own definition, groups that see themselves not as Americans, just as Americans but some subgroups, some alienated groups, some group with a cause, some group with a complaint. As I say, some group that feels victimized.

We are encouraging that, that whole concept of balkanization of America. We are encouraging that because we operate under what we call a cult of multiculturalism. It is a philosophy that permeates American society, permeates our schools, and it tells people that there is no reason for them to actually become part of the American mainstream, that there is nothing really good or worth emulating in American society or western civilization, for that matter. And our schools drop all references to western civilization, except in the most negative way. They drop classes in it.

We tell people that come here from other countries that they should not become part of the American mainstream, that they should keep their own language, that they should keep their own political affiliations with their country of origin and not integrate into the society. We do all kinds of things that separate us, instead of helping to join us together as Americans.

In this body, we allow groups to organize on the basis of race. Amazing as that might sound to Americans, we allow caucuses to develop, to actually be created here on the basis of race. Just yesterday when I said that this was a bad idea and that I am going to introduce a rule in the next session, if I am here, that prohibits any caucus from being established here on the basis of race, I was vilified by many of my colleagues for being both a racist and insensitive and a lot of other things, because we have the Black Caucus and the Hispanic Caucus and the Asian Pacific Caucus.

It is amazing to me that we can have a huge debate in this country over a very famous talk show host, Mr. Limbaugh, who makes an intemperate remark relating to the race of a football player and is chastised roundly and resigns his job, resigns from his position. In all of the media, everything I heard today is there is absolutely no place for this kind of thing, no reason we should ever be using or talking about race when we talk about these football players. There is nothing that connects these two, and we should not ever discuss it.

I certainly agree. I see absolutely no connection myself. It was probably a very stupid thing to do and to say.

But at the same day that that story breaks, I am roundly criticized for saying that we should not have a caucus in this House based on race and that all of the rhetoric that emanates out of this body about a colorblind society and all of the admonitions and all of the laws that we pass to ensure a colorblind society are essentially ignored because we allow for people to organize here on the basis of race. Nobody says a thing. I assure you they would say something if somebody tried to organize a, quote, White Caucus or Caucasian Caucus, and I would certainly be one of those people saying, absolutely not.

But what is the difference? What is the difference?

These are uncomfortable things, I understand that. People get very, very uptight and sort of anxious when you bring them up. But the point I tried to make here is that this is just another example of us dividing ourselves up. And when massive immigration combines with this philosophy of the sort of cult of multiculturalism that permeates our society, it can only be bad for America. There is nothing positive I can think of about this.

□ 2015

We can extol the virtues of diversity. I am a full-blooded Italian American. I love my heritage that is that part of me that one would say is Italian, but if someone were to ask me what is my heritage? What is my heritage? What is my country? I would immediately answer, and I would have answered this when I was a little child, it is the United States of America. That is what I thought of as my country, my history, and my heritage. I have never connected politically nor have my parents ever considered allowing me to connect politically and culturally and philosophically with a country other than the United States. It was an alien notion, or idea, and yet we are doing this to ourselves.

Ms. JACKSON-LEE of Texas. Madam Speaker, will the distinguished gentleman yield?

Mr. TANCREDO. I yield to the gentlewoman.

Ms. JACKSON-LEE of Texas. I thank the gentleman very much and we serve on the House Committee on the Judiciary together.

Mr. TANCREDO. I wish I did serve on the House Committee on the Judiciary.

Ms. JACKSON-LEE of Texas. We have worked on issues together dealing with these questions and the gentleman is right; I stand corrected. And I think we note that we do have differences of opinion, but I would say to the gentleman that I would much rather have the opportunity for us to address these issues any way that I think draws most of Americans' interest and concern.

The gentleman just made it very clear that his heritage is one of immigrants, or his family came from a place to America for opportunities. I happen to have a heritage of immigrant grandparents who came here from the Caribbean. I would not be in the United States Congress but for their coming to seek a greater opportunity. The gentleman mentioned the mass numbers of individuals here today who came up with the Immigration Freedom Riders. But I what I would suggest to the gentleman is that rather than the broad brush, he noted that there are people who are here in this country who may be undocumented, which seem to be the crux of the crime, who really are attempting to seek legalization. They really want to become documented, and the numbers, unfortunately, suggest that they have been here for over a period of time.

There is a distinction, I think, between securing our borders. I am on the Select Committee on Homeland Security. I will be leaving with the Select Committee on Homeland Security to go to the northern border. I live on the southern border in Texas. And I think we should distinguish those issues that Americans can draw around with the heartfelt desire of undocumented individuals who have been trying to secure legalization, and I would ask the distinguished gentleman that when he comes to the floor if he would consider the fact that there is a degree of compassion. I will probably never get him to agree with me that those undocumented should have at least the ability to access legalization, because I think it is going to be very difficult, realistically, to get these people out of restaurants and hotels and homes and construction sites; and I will say to him because I happen to be, I think it is very clear, coming from a minority group of this Nation but proudly here standing as an American, and there are issues with American workers and there are issues with minorities that are here.

There are a lot of issues that we could be divisive about, but we should not be divisive about the hopes and dreams of the thousands of people that I run into every day when I see that, over a period of time, these immigrants workers who came here on the Freedom Ride, the tears in their eyes. I do not think the gentleman is divided on that. I really do not think so. Even if he will come back at me, when I yield back, even to say, no, I disagree, I do not think we are divided on that. I think if a group of them sat down with him, he might find common ground because I do not believe any truck, any plane, any bus is going to haul out 8 million. And I leave the gentleman on this, before I yield back: I would feel much safer if these undocumented individuals, and I do not see how we are going to get them out, would be legalized, paying taxes, putting into the Social Security, and being documented so that this Nation knew where everybody who meant to do good was so that we can find the guys and ladies that were here to do us harm.

I think that is the distinction I would like to make and hope that maybe we will have an opportunity, whether it is one on one, whether it is as we proceed with hearings and debate on the floor of the House, to really talk about the concerns that I think the American people want us to address with a real immigration policy that addresses the concerns of all of us. And I thank the gentleman for his kindness in his yielding.

Mr. TANCREDO. Madam Speaker, I thank the gentlewoman for coming and expressing those views. I must say that I respect the gentlewoman's opinion immensely; and as a matter of fact, they did come to my office today, and I enjoyed it tremendously. The discussion we had with the people who came to my office, there were five, and we talked about this very issue. And I kept saying to them the one thing I wish they would just help me understand, and I say this to the gentlewoman, how do I explain it? How do I explain our willingness to do this, to provide amnesty for people who are here illegally even though they have? As the gentlewoman says, and I think absolutely accurately, that for the most part 90 percent of them are here doing honest labor and doing it under difficult conditions and have done it for a long time, all that is true.

But there are millions of people seeking that exact same opportunity, and they are all doing it the right way. They are waiting out there. All over the world they are waiting to come here for that same exact opportunity, and they are filling out the information, and they are sending in their visa requests, and they are paying fees to lawyers. And they are doing all kinds of things like that. And millions have come that way and think to themselves this is not fair. This is not fair that I had to go through this or that I am being put through this, but yet the people who have come here illegally have gotten this opportunity. I understand the gentlewoman's concern for these people and for those who are seeking this legalized route, but every time we do this, and we have done this, this is not unique, in 1996 we provided amnesty. What did it solve? It only created a system that increased the flow of illegal aliens into this country.

If we will secure this border, and I believe we can do that, the gentlewoman and I may argue about whether or not this is feasible. I believe it is. I believe the technology is there. I have seen it on the northern border, by the way, where I go to. I have seen it in operation. We can use technology including unmanned aerial vehicles and radar and a variety of other technologies to help secure the border. If we can secure the border and create a guest worker program that then allows people to come into this country in a legal process that protects their rights so they are not getting in the back of trailers and getting suffocated, so that they are not coming across that border and dying in the deserts, so that they can do it in a legal manner, I am absolutely totally supportive of it. But I cannot possibly support it along with amnesty. There is no reason that we have to add amnesty to any sort of guest worker program.

Ms. JACKSON-LEE of Texas. Madam Speaker, will the gentleman yield?

Mr. TANCREDO. I yield to the gentlewoman.

Ms. JACKSON-LEE of Texas. Might I give him a response? I think the response is because the American people, one, are compassionate; but they are practical. And I think this is part of the answer. The other part of the answer is why do we want to do it? Because a young Guatemalan came to this country illegally, and he lost his life fighting for us in Iraq.

I think if we tell the story of immigrants, and I do not like the word amnesty. It was not part of my understanding of immigration law. I do not like that word because I think one thing about Americans, they believe in hard work and they believe that if they are here working hard and if they are here not involved in criminal activity, they can understand that maybe there should be a reward. So I do not like ''amnesty.'' I have never bought into ''amnesty.'' I like this concept called earned access to legalization, and I do not even suggest, Madam Speaker, that it would be, if you will, a question where it is a gift. And you added guest worker. That is a separate thing because the practical part of it is, as I think most Americans know, I do not know how we get 8 million people out of the country. And I do not know how we criminalize 8 million people. So what I am saying is have they been here 3 years? Have they not been involved in any criminal activity? Can they document that? Have they been paying taxes, sales taxes, et cetera? Have they had these three things? Can they then apply?

The gentleman makes a point there is a list. One of the things we all agree with is that we have suffered under the burden of an agency that has not worked. Even the gentleman probably has a long list of immigration issues, business people who say I have sent in all the papers, and I cannot get my employee over here to work with a green card. But what I am saying is I think Americans are practical and I do think they are compassionate, and I think they understand some of the things

that the gentleman is saying. Obviously, we vigorously disagree. But I am looking for places where we can agree. I do not like the word ''amnesty.'' I do not use the word ''amnesty.'' I like earning it. And I like the fact that there is a deciding body now in power with a whole bunch of new rules. I am talking about the new bureau on immigration. So they can actually say no to these people who will come in and they say, You get it; you do not. I am sure we will get complaints on that, but it makes a difference.

Mr. TANCREDO. Madam Speaker, would the gentlewoman agree with me that before any kind of guest worker program is put in place, it is imperative that we secure the border? Because if we do not secure the border, having a guest worker program legalizing 8 to 10 million people who are here, and creating this guest worker process is essentially meaningless. Because no matter what we do, we will say here are the rules under which they can come into the country under the new program and they have to do X, Y, and Z, and the employer has to follow these. Of course, the minute we constrain it that way, we are saying if they, however, avoid the law, if they can come in illegally, they will ignore it. The employer will ignore it. People coming in will ignore it because there is an easier way to do it, unless we secure the border.

So if the gentlewoman is looking for a place to agree, then I would ask her if she would agree with me that we have to, number one, secure the border, whatever that takes, and we could argue about how that is to occur, but come to a position where we are not looking at this 800,000 people a year coming in. We all know where it is happening. We see it. We reap the whirlwind with it. If we can agree with that, then I will be happy to discuss the possibility about what comes next in terms of a guest worker program.

I yield to the gentlewoman.

Ms. JACKSON-LEE of Texas. Madam Speaker, let me say to the distinguished gentleman, a guest worker program, those of us who work from the legislative perspective, and as the gentleman well knows, I serve as the ranking member on the Immigration, Border Security, and Claims Subcommittee. The guest worker program we sort of tie to the temporary worker program, and I agree with the gentleman. An earned access would be individuals who work in many other places and would then ultimately seek to have legal permanent status. But I think we are both moving in the same direction, and here is what I would say to his question. I am from Texas; so we have generally had very cordial relationships or relations with our closest neighbor, and that is Mexico. But I think we can take it to the next step when we talk about securing the border. I, frankly, believe Mexico wants the border secured. We want the border secured. But the reason these people come is because of utter poverty.

This is a time, my distinguished friend, if we can work with Mexico to begin to work on that economic base that then draws people home, the woman from California (Ms. SOLIS), and I will be joining her, I believe, will be going to look at the worst poverty that one can imagine. So I would say to the gentleman, I think securing the border in a way that is responsible respects the fact that Mexico is an ally just for the fact that everybody has a sovereign right to do so; but as we do it, let us do it by fixing some of the problems that are broken in terms of the economy over there, in terms of these 8 million that are here, in terms of creating at least a pathway.

Guest worker is one pathway; earned access is another. But I do not think we can quarrel about securing the border, and I would hope that my good friends in the immigrant advocacy area know that that is not a situation where it is condemning immigration. It is suggesting that we all have to work toward balancing the security of our respective nations. But I think if we worked on the economy that draws people out of the deepness of Mexico just to be able to live, we could understand their plight and other places in South America.

And I would just close on this and yield back to the gentleman. And I simply say if we had an equitable immigration policy, if we did for the Haitians what we do for Cubans, if we did for the Africans what we do for others, if we say that immigration includes the Irish or the English and then we got a policy that worked, we might even find ourselves somewhere near thinking that we have a solution.

□ 2030

But I thank the gentleman for yielding to me. The gentleman knows my passion. The gentleman knows my sense of balance and my absolute commitment to the idea that those who come now deserve our respect and admiration because they have come to contribute, they have come to serve in our military, and they have come to get our support.

Mr. TANCREDO. Madam Speaker, I thank the gentlewoman. I absolutely respect every single person. I understand entirely why these people come. I would be doing exactly the same thing. My grandparents did exactly the same thing. It is not the individual that I complain about, it is our own government's policy, and I ask us to look seriously at changing it for all Americans.

PROVIDING FOR CONDITIONAL ADJOURNMENT OR RECESS OF SENATE

The SPEAKER pro tempore (Mrs. MILLER of Michigan) laid before the House the following privileged Senate concurrent resolution (S. Con. Res. 71) providing for a conditional adjournment or recess of the Senate.

The Clerk read the Senate concurrent resolution, as follows:

S. CON. RES. 71

Resolved by the Senate (the House of Representatives concurring), That when the Senate recesses or adjourns at the close of business on Friday, October 3, 2003, on a motion offered pursuant to this concurrent resolution by its Majority Leader or his designee, it stand recessed or adjourned until Tuesday, October 14, 2003, at a time to be specified by the Majority Leader or his designee in the motion to recess or adjourn, or until noon on the second day after Members are notified to reassemble pursuant to section 2 of this concurrent resolution, whichever occurs first.

SEC. 2. The Majority Leader of the Senate after consultation with the Minority Leader of the Senate, shall notify the Members of the Senate to reassemble whenever, in his opinion, the public interest shall warrant it.

The Senate concurrent resolution was concurred in.

A motion to reconsider was laid on the table.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. PALLONE) to revise and extend their remarks and include extraneous material:)

Mr. BROWN of Ohio, for 5 minutes, today.

Mr. PALLONE, for 5 minutes, today.

Mr. DAVIS of Illinois, for 5 minutes, today.

Mr. DEFAZIO, for 5 minutes, today.

Ms. NORTON, for 5 minutes, today.

Mr. FILNER, for 5 minutes, today.

Mr. HINOJOSA, for 5 minutes, today.

Mr. STUPAK, for 5 minutes, today.

Ms. JACKSON-LEE of Texas, for 5 minutes, today.

(The following Members (at the request of Mr. FLAKE) to revise and extend their remarks and include extraneous material:)

Mrs. BLACKBURN, for 5 minutes, today.

Mr. LEACH, for 5 minutes, today.

Mr. BURTON of Indiana, for 5 minutes, October 7 and 8.

(The following Member (at her own request) to revise and extend her remarks and include extraneous material:)

Ms. WATERS, for 5 minutes, today.

ENROLLED BILLS SIGNED

Mr. Trandahl, Clerk of the House, reported and found truly enrolled bills of the House of the following titles, which were thereupon signed by the Speaker:

H.R. 1925. An act to reauthorize programs under the Runaway and Homeless Youth Act and the Missing Children's Assistance Act, and for other purposes.

H.R. 2826. An act to designate the facility of the United States Postal Service located at 1000 Avenida Sanchez Osorio in Carolina, Puerto Rico, as the ''Roberto Clemente Walker Post Office Building''.

SENATE ENROLLED BILL SIGNED

The SPEAKER announced his signature to an enrolled bill of the Senate of the following title:

S. 570. An act to amend the Higher Education Act of 1965 with respect to the qualifications of foreign schools.

ADJOURNMENT

Mr. TANCREDO. Madam Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 8 o'clock and 31 minutes p.m.), under its previous order, the House adjourned until tomorrow, Friday, October 3, 2003, at 10 a.m.

NOTICE OF PROPOSED RULEMAKING

U.S. CONGRESS,
OFFICE OF COMPLIANCE,
Washington, DC, October 2, 2003.

HON. J. DENNIS HASTERT,
Speaker of the House, House of Representatives, Washington, DC.

DEAR MR. SPEAKER: Pursuant to Section 303(b) of the Congressional Accountability Act of 1995 (2 U.S.C. 1383(b)), I am transmitting on behalf of the Board of Directors the enclosed notice for publication in the Congressional Record.

The Congressional Accountability Act specifies that the enclosed notice be published on the first day on which both Houses are in session following this transmittal.

Sincerely,

SUSAN S. ROBFOGEL,
Chair.

Enclosure.

OFFICE OF COMPLIANCE

The Congressional Accountability Act of 1995: Notice of Proposed Rulemaking—Extension of Period for Comment.

A Notice of Proposed Rulemaking (NPR) for the proposed procedural regulations was published in the Congressional Record dated September 4, 2003. This notice is to inform interested parties that the Board of Directors of the Office of Compliance has extended the period for public comment on the NPR until October 20, 2003. Any questions about this notice should be directed to the Office of Compliance, LA 200, John Adams Building, Washington, DC 20540–1999; phone 202/724–9250; fax 202/426–1913.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 8 of rule XII, executive communications were taken from the Speaker's table and referred as follows:

4549. A letter from the Administrator, Department of Agriculture, transmitting the Department's final rule — Irish Potatoes Grown in Colorado; Reinstatement of the Continuing Assessment Rate [Docket No. FV03-948-2 FR] received September 30, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

4550. A letter from the Administrator, Department of Agriculture, transmitting the Department's final rule — National Dairy Promotion and Research Program; Amendment to the Order [Docket No. DA-03-06] received September 30, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

4551. A letter from the Administrator, Department of Agriculture, transmitting the Department's final rule — Oranges, Grapefruit, Tangerines, and Tangelos Grown in Florida; Extension and Modification of the Exemption for Shipments of Tree Run Citrus [Docket No. FV03-905-1 IFR] received September 30, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

4552. A letter from the Administrator, Department of Agriculture, transmitting the Department's final rule — Oranges, Grapefruit, Tangerines, and Tangelos Grown in Florida; Limiting the Volume of Small Red Seedless Grapefruit [Docket No. FV03-905-3 IFR] received September 30, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

4553. A letter from the Administrator, Department of Agriculture, transmitting the Department's final rule — Oranges, Grapefruit, Tangerines, and Tangelos Grown in Florida and Imported Grapfruit; Removing All Seeded Grapefruit Regulations, Relaxation of Grade Requirements for Valencia and Other Late Type Oranges, and Removing Quality and Size Regulations on Imported Seeded Grapefruit [Docket No. FV03-905-2-IFR] received September 30, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

4554. A letter from the Administrator, Department of Agriculture, transmitting the Department's final rule — Irish Potatoes Grown in Colorado; Increased Assessment Rate [Docket No. FV03-948-3 FR] received September 30, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

4555. A letter from the Administrator, Department of Agriculture, transmitting the Department's final rule — Dried Prunes Produced in California; Changes in Reporting Requirements [Docket No. FV03-993-1 FIR] received September 30, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

4556. A letter from the Administrator, Department of Agriculture, transmitting the Department's final rule — Domestic Dates Produced or Packaged in Riverside County, CA; Decreased Assessment Rate [Docket No. FV03-987-1 FR] received September 30, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

4557. A letter from the Administrator, Department of Agriculture, transmitting the Department's final rule — Oranges, Grapefruit, Tangerines, and Tangelos Grown in Florida; Increased Assessment Rate [Docket No. FV03-905-4 FR] received September 30, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

4558. A letter from the Administrator, Department of Agriculture, transmitting the Department's final rule — Increased Assessment Rates for Specified Marketing Orders [Docket No. FV03-922-1 FR] received September 30, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

4559. A letter from the Secretary, Department of Defense, transmitting a letter on the approved retirement of Lieutenant General Earl B. Hailston, United States Marine Corps, and his advancement to the grade of lieutenant general on the retired list; to the Committee on Armed Services.

4560. A letter from the Secretary, Department of Defense, transmitting a letter on the approved retirement of Lieutenant General John M. Le Moyne, United States Army, and his advancement to the grade of lieutenant general on the retired list; to the Committee on Armed Services.

4561. A letter from the Director, Office of Legislative Affairs, Federal Deposit Insurance Corporation, transmitting the Corporation's final rule — Removal, Suspension, and Debarment of Accountants From Performing Audit Services (RIN: 3064-AC57); Department of the Treasury, Office of the Comptroller of the Currency [Docket No. 03-19] (RIN: 1557-AC10); Board of Governors of the Federal Reserve System [Docket No. R-1139]; Department of the Treasury, Office of Thrift Supervision [No. 2003-33] (RIN: 1550-AB53) received September 30, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Financial Services.

4562. A letter from the Director, Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Department of Labor, transmitting the Department's final rule — Emergency Evacuations (RIN: 1219-0137) received September 30, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Education and the Workforce.

4563. A letter from the Assistant General Counsel for Regulatory Law, Department of Energy, transmitting the Department's final rule — Energy Conservation Program for Consumer Products: Test Procedure for Dishwashers [Docket No. EE-RM/TP-99-500] (RIN: 1904-AB10) received September 30, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

4564. A letter from the Senior Legal Advisor to the Chief, Media Bureau, Federal Communications Commission, transmitting the Commission's final rule — Table of Allotments, FM Broadcast Stations (Okeechobee, Florida) [MB Docket No. 03-89; RM-10689] received September 17, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

4565. A letter from the Deputy Director, Defense Security Cooperation Agency, transmitting notification concerning the Department of the Air Force's Proposed Letter(s) of Offer and Acceptance (LOA) to the Czech Republic for defense articles and services (Transmittal No. 03-38), pursuant to 22 U.S.C. 2776(b); to the Committee on International Relations.

4566. A letter from the Acting Director, Defense Security Cooperation Agency, transmitting the listing of all outstanding Letters of Offer to sell any major defense equipment for $1,000,000 or more as of 30 June 2003, pursuant to 22 U.S.C. 2776(a); to the Committee on International Relations.

4567. A letter from the Director, International Cooperation, Department of Defense, transmitting a copy of Transmittal No. 19-03 which informs you of our intent to sign a Memorandum of Understanding (MOU) concerning Special Operations Forces Equipment Capability between the United States and the United Kingdom, pursuant to 22 U.S.C. 2767(f); to the Committee on International Relations.

4568. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting certification of a proposed license for the export of major defense equipment and defense articles to Greece (Transmittal No. DTC 102-03), pursuant to 22 U.S.C. 2776(c); to the Committee on International Relations.

4569. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting certification of a proposed license for the export of major defense equipment and defense articles to Taiwan (Transmittal No. DDTC 088-03), pursuant to 22 U.S.C. 2776(c); to the Committee on International Relations.

4570. A letter from the Assistant Sectretary of Legislative Affairs, Department of State, transmitting transmitting the 2002 and 2003 reports on CFE Compliance pursuant to the resolution of advice and consent to ratification of the Document Agreed Among the States Parties to the Treaty on Conventional Armed Forces in Europe of November 19, 1990, (''the CFE Flank Document''); to the Committee on International Relations.

4571. A letter from the Assistant Director, Executive & Political Personnel, Department of the Army, transmitting a report pursuant to the Federal Vacancies Reform Act of 1998; to the Committee on Government Reform.

4572. A letter from the Assistant Director, Executive & Political Personnel, Department of the Navy, transmitting a report pursuant to the Federal Vacancies Reform Act of 1998; to the Committee on Government Reform.

4573. A letter from the Assistant Director, Executive & Political Personnel, Department of Defense, transmitting a report pursuant to the Federal Vacancies Reform Act of 1998; to the Committee on Government Reform.

4574. A letter from the Secretary, Department of Energy, transmitting the Department of Energy's 2003 Strategic Plan entitled, ''Protecting National, Energy, and Economic Security with Advanced Science and Technology and Ensuring Environmental Cleanup''; to the Committee on Government Reform.

4575. A letter from the Chairman, International Trade Commission, transmitting the fifth edition of the United States International Trade Commission's Strategic Plan, which covers the period from fiscal year 2003 through fiscal year 2008, pursuant to Public Law 103—62; to the Committee on Government Reform.

4576. A letter from the Archivist of the United States, National Archives and Records Administration, transmitting the Strategic Plan of the National Archives and Records Administration, revised 2003; to the Committee on Government Reform.

4577. A letter from the General Counsel, Office of Management and Budget, transmitting a report pursuant to the Federal Vacancies Reform Act of 1998; to the Committee on Government Reform.

4578. A letter from the Postmaster General, CEO, United States Postal Service, transmitting two reports entitled ''Postal Service Proposal: Military Service Payments Requirements,'' and ''Postal Service Proposal: Use of Savings for Fiscal Years after 2005,'' pursuant to Public Law 108—18; to the Committee on Government Reform.

4579. A letter from the Assistant Secretary of Legislative Affairs, Department of State, transmitting the redesignation as ''foreign terrorist organizations''pursuant to Section 219 of the Immigration and Nationality Act, as added by the Antiterrorism and Effective Death Penalty Act of 1996, and amended by the Illegal Immigration Reform and Immigrant Responsibility Act of 1996, and by the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism (USA PATRIOT ACT) of 2001; to the Committee on the Judiciary.

4580. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule — Establishment of Class E Airspace; Richfield Municipal Airport, Richfield, UT [Airspace Docket No. 01-ANM-16] received September 30, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4581. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule — Modification of Class E Airspace; South Bend, IN [Docket No. FAA-2003-14693; Airspace Docket No. 03-AGL-03] received September 30, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4582. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule — Modification of Class E Airspace; West Union, OH [Docket No. FAA-2003-14906; Airspace Docket No. 03-AGL-05] received September 30, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4583. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule — Modification of Class E Airspace; Cheboygan, MI [Docket No. FAA-2003-14905; Airspace Docket No. 03-AGL-04] received September 30, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4584. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule — Modification of Class E Airspace; Waimea-Kohala, HI [Docket No. FAA-2003-15628; Airspace Docket No. 03-AWP-10] received September 30, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4585. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule — Removal of Class E Airspace; Clifton, TN [Docket No. FAA-2003-16122; Airspace Docket No. 03-ASO-17] received September 30, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4586. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Rolls-Royce plc RB211-524G2, -524G2-T, -524G3, -524G3-T, -524H, -524H-T, -524H2, and ''524H2-T Series, and Models RB211 Trent 768-60, 772-60, and 772B-60 Turbofan Engines; Correction [Docket No. 2003-NE-20-AD; Amendement 39-13242; AD2003-14-23] received September 30, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4587. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Airbus Model A300 B4-600, B4-600R, and F4-600R (Collectively Called A300-600) Series Airplanes, and Airbus Model A310 Series Airplanes [Docket No. 2003-NM-206-AD; Amendment 39-13319; AD 2003-20-01] (RIN 2120-AA64) received September 30, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4588. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Learjet Model 60 Airplanes [Docket No. 200-NM-408-AD; Amendment 39-13314; AD 2003-19-11] (RIN 2120-AA64) received September 30, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4589. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Eurocopter France Model EC 155B Helicopters [Docket No. 2003-SW-22-AD; Amendment 39-13315; AD 2003-19-12] (RIN 2120-AA64) received September 30, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4590. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule — IFR Altitudes; Miscellaneous Amendments [Docket No. 30389; Amdt. No. 444] received September 30, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4591. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule — Standard Instrument Approach Procedures; Miscellaneous Amendments [Docket No. 30387; Amdt. No. 3075] received September 30, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4592. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Fairchild Aircraft, Inc., SA226 Series and SA227 Series Airplanes [Docket No, 2000-CE-45-AD; Amendment 39-13313; AD 2003-19-101] (RIN 2120 AA64) received September 30, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4593. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Eurocopter France Model AS 365 N3 and EC 155B Helicopters [Docket No. 2001-SW-61-AD; Amendment 39-13303; AD 2003-19-01] (RIN 2120-AA64) received September 30, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4594. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Aerospatiale Model ATR42-500 and ATR72 Series Airplanes [Docket No. 2002-NM-169-AD; Amendment 39-13284; AD 2003-17-09] (RIN 2120-AA64) received September 30, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4595. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Airbus A330 and A340 Series Airplanes [Docket No. 2001-NM-187-AD; Amendment 39-13293; AD 2003-18-02] (RIN 2120-AA64) received September 30, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4596. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Eagle Aircraft (Malaysia) Sdn. Bhd. Model 150B Airplanes [Docket No. 2000-CE-23-AD; Amendment 39-13310; AD 2003-19-07] (RIN 2120-AA64) received September 30, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4597. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Boeing Model 777 Series Airplanes [Docket No. 2003-NM-137-AD; Amendments 39-13304; AD 2003-19-02] (RIN 2120-AA64) received September 30, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4598. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; McDonnell Douglas Model DC-10-10, -10F, -15, -30, -30F (KC-10A and KDC-10), -40, and-40F Airplanes; and Model MD-10-10F and -30F Airplanes [Docket No. 2002-NM-164-AD; Amendment 39-13308; AD 2003-19-05] (RIN 2120-AA64) received September 30, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4599. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Establishment of Class E5 airspace at Afton Municipal Airport, Afton, WY [Airspace Docket No. FAA-02-ANM-07] received September 30, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4600. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Establishment of Class E Airspace; Marshall, AK [Docket No. FAA-2002-13971; Airspace Docket No. 02-AAL-08] received September 30, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4601. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Establishment of Class E2 Airspace, Amendment of Class E5 Airspace; Waycross, GA [Docket No. FAA-2003-14707; Airspace Docket No. 03-ASO-3] received September 30, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4602. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Modification of Class E Airspace; Eureka, KS [Docket No. FAA-2003-14847; Airspace Docket No. 03-ACE-32] received September 30, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4603. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Dornier Model 328-100 and -300 Series Airplanes [Docket No. 2002-NM-60-AD; Amendment 39-13306; AD 2003-19-03] (RIN 2120-AA64) received September 30, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4604. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Amendment to Restricted Area 4809, Tonopah, NV [Docket No. FAA-2003-15478; Airspace Docket No. 03-AWP-6] (RIN: 2120-AA66) received September 30, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4605. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Revision of Legal Descriptions of Multiple Federal Airways in the Vicinity of Farmington, NM [Docket No. FAA-2002-13013; Airspace Docket No. 02-ANM-10] (RIN: 2120-AA66) received September 30, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4606. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Bombardier Model CL-600-2B19 (Regional Jet Series 100 & 440) Airplanes [Docket No. 2003-NM-179-AD; Amendment 39-13305; AD 2003-09-04 R1] (RIN 2120-AA64) received September 30, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4607. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Bombardier Model CL-600-2B19 (Regional Jet Series 100 and 440) Airplanes [Docket No. 2001-NM-176-AD; Amendment 39-13307; AD 2003-19-04] (RIN 2120-AA64) received September 30, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4608. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Boeing Model 747 Series Airplanes [Docket No. 2001-NM-324-AD; Amendment 39-1311; AD 2003-19-08] (RIN 2120-AA64) received September 30, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4609. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Establishment of Class E2 Airspace; Elizabeth City, NC; Correction [Docket No. FAA-2003-14673; Airspace Docket No. 03-ASO-2] received September 30, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4610. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Modification of Class E Airspace; Beatrice, NE [Docket No. FAA-2003-15461; Airspace Docket No. 03-ACE-59] received September 30, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4611. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Modification of Class E Airspace; Kenton, OH; Revocation of Class E Airspace; Bellefontaine, OH [Docket No. FAA-2003-14644; Airspace Docket No. 03-AGL-01] received September 30, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4612. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Modification of Class E Airspace; Sac City, IA [Docket No. FAA-2003-15079; Airspace Docket No. 03-ACE-47] received September 30, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4613. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Modification of Class E Airspace; Red Oak, IA [Docket No. FAA-2003-15078; Airspace Docket No. 03-ACE-46] received September 30, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4614. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Modification of Class E Airspace; Pocahontas, IA [Docket No. FAA-2003-15077; Airspace Docket No. 03-ACE-45] received September 30, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4615. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Modification of Class E Airspace; Sibley, IA [Docket No. FAA-2003-15080; Airspace Docket No. 03-ACE-48] received September 30, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4616. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Establishment of Class E Airspace; Ambler, AK [Docket No. FAA-2003-14608; Airspace Docket No. 03-AAL-02] received September 30, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4617. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Modification of Class E Airspace; Aurora, MO [Docket No. FAA-2003-15460; Airspace Docket No. 03-ACE-58] received September 30, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4618. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Modification of Class E Airspace; Webster City, IA [Docket No. FAA-2003-15458; Airspace Docket No. 03-ACE-56] received September 30, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4619. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Modification of Class E Airspace; West Union, IA [Docket No. FAA-2003-15459; Airspace Docket No. 03-ACE-57] received September 30, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4620. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Modification of Class E Airspace; Waterloo, IA [Docket No. FAA-2003-15457; Airspace Docket No. 03-ACE-55] received September 30, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4621. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Amendment of Class E5 Airspace; Tuscaloosa, AL; Correction [Docket No. FAA-2003-15360; Airspace Docket No. 03-ASO-7] received September 30, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4622. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Boeing Model 767-Series Airplanes [Docket No. 2001-NM-342-AD; Amendment 39-13312; AD 2003-19-09] (RIN 2120-AA64) received September 30, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4623. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Turbomeca Arriel 1 Series Turboshaft Engines; Correction [Docket No. 94-ANE-08-AD; Amendment 39-13256; AD 2003-16-03] (RIN 2120-AA64) received September 30, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4624. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Turbomeca S.A. Arrius 2B1, 2 B1A, 2 B1A 1, and 2K1 Turboshaft Engines [Docket No. 2003-NE-05-AD; Amendment 39-13309; AD 2003-19-06] (RIN 2120-AA64) received September 30, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4625. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Bombardier Model CL-600-2B19 (Regional Jet Series 100 & 440) Airplanes [Docket No. 2001-NM-322-AD; Amendment 39-13221; AD 2003-14-02] (RIN 2120-AA64) received September 30, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4626. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Gulfstream Model G-V Series Airplanes [Docket No. 2003-NM-190-AD; Amendment 39-13302; AD 2003-18-11] (RIN 2120-AA64) received September 30, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4627. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Boeing Model 767-200, -300, -300F, and -400ER Series Airplanes [Docket No. 2001-NM-240-AD; Amendment 39-

13301; AD 2003-18-10] (RIN 2120-AA64) received September 30, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4628. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Boeing Model 757 Series Airplanes Powered by Pratt & Whitney Engines [Docket No. 2001-NM-370-AD; Amendment 39-13296; AD 2003-18-05] (RIN 2120-AA64) received September 30, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4629. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Airbus Model A310 Series Airplanes [Docket No. 2002-NM-179-AD; Amendment 39-13299; AD 2003-18-08] (RIN 2120-AA64) received September 30, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4630. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Airbus Model A319-131 and -132; A320-231, -232, and -233; and A321-131 and -231 Series Airplanes [Docket No. 2000-NM-411-AD; Amendment 39-13297; AD 2003-18-06] (RIN 2120-AA64) received September 30, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4631. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule — Revision of Federal Airways V-13 and V-407; Harlingen, TX [Docket No. FAA 2003-15061; Airspace Docket No. ASD 03-ASW-1] (RIN 2120-AA66) received September 30, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4632. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule — Modification of Class E Airspace; Sullivan, MO [Docket No. FAA-2003-15721; Airspace Docket No. 03-ACE-63] received September 30, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4633. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule — Modification of Class D Airspace; and Modification of Class E Airspace; St. Joseph, MO [Docket No. FAA-2003-16026; Airspace Docket No. 03-ACE-70] received September 30, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4634. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule — Modification of Class E Airspace; Aurora, MO [Docket No. FAA-2003-15460; Airspace Docket No. 03-ACE-58] received September 30, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4635. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule — Modification of the Houston Class B Airspace; TX [Docket No. FAA-2003-14402; Airspace Docket No. 01-AWA-4] (RIN 2120-AA66) received September 30, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4636. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule — Modification of the Class E Airspace; Wichita Mid-Continent Airport, KS [Docket No. FAA-2003-15454; Airspace Docket No. 03-ACE-52] received September 30, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4637. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule — Modification of Class E Airspace; Sioux Center, IA [Docket No. FAA-2003-15455; Airspace Docket No. 03-ACE-53] received September 30, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4638. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule — Modification of Class E Airspace; Beatrice, NE [Docket No. FAA-2003-15461; Airspace Docket No. 03-ACE-59] received September 30, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4639. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule — Modification of Class E Airspace; Elkhart, KS [Docket No. FAA-2003-15453; Airspace Docket No. 03-ACE-51] received September 30, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4640. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule — Modification of Class E Airspace; Vinton, IA [Docket No. FAA-2003-15456; Airspace Docket No. 03-ACE-54] received September 30, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4641. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule — Modification of Class E Airspace; Waimea-Kohala Airport, HI [Docket No. FAA-2003-15628; Airspace Docket No. 03-AWP-10] received September 30, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4642. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule — Establishment of Class E Airspace at Richfield Municipal Airport, Richfield, UT [Airspace Docket No. FAA-01-ANM-16] received September 30, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4643. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule — Establishment of Jet Routes 618 and 623, and Revocation of Jet Routes 600 and 601; AK [Docket No. FAA-2003-15978; Airspace Docket No. 03-AAL-14] received September 30, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4644. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule — Modification of Class E Airspace; West Union, IA [Docket No. FAA-2003-15459; Airspace Docket No. 03-ACE-57] received September 30, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4645. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule — Modification of Class E Airspace; Webster City, IA [Docket No. FAA-2003-15458; Airspace Docket No 03-ACE-56] received September 30, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4646. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule — Modification of Class E Airspace; Waterloo, IA [Docket No. FAA-2003-15457; Airspace Docket No. 02-ACE-55] received September 30, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4647. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule — Transportation of Household Goods; Consumer Protection Regulations; delay of compliance date [Docket No. FMCSA-97-2979] (RIN 2126-AA32) received September 30, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4648. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule — Hours of Service of Drivers [Docket No. FMCSA-97-2350] (RIN 2126-AA23) received September 30, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4649. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule — Hazardous Materials Regulations: Minor Editorial Corrections and Clarifications [Docket No. RSPA-03-16099 (HM-189V)] (RIN 2137-AD85) received September 30, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4650. A letter from the Regulations Coordinator, ACF, Department of Health and Human Services, transmitting the Department's final rule — Charitable Choice Provisions Applicable to the Temporary Assistance for Needy Families Program (RIN: 0970-AC12) received September 30, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

4651. A letter from the Chair, Office of Compliance, transmitting notice of proposed procedural rulemaking--Extension of Period for Comment--under Section 303 of the Congressional Accountability Act of 1995 for publication in the Congressional Record, pursuant to 2 U.S.C. 1383(b); jointly to the Committees on House Administration and Education and the Workforce.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. HUNTER: Committee on Armed Services. House Resolution 364. Resolution of inquiry requesting the President to transmit to the House of Representatives not later than 14 days after the date of adoption of this resolution the report prepared for the Joint Chiefs of Staff entitled ''Operation Iraqi Freedom Strategic Lessons Learned'' and documents in his possession on the reconstruction and security of post-war Iraq; adversely (Rept. 108–289 Pt. 2). Referred to the House Calendar.

Mr. POMBO: Committee on Resources. H.R. 408. A bill to provide for expansion of Sleeping Bear Dunes National Lakeshore; with an amendment (Rept. 108–292). Referred to the Committee of the Whole House on the State of the Union.

Mr. POMBO: Committee on Resources. H.R. 708. A bill to require the conveyance of certain National Forest System lands in Mendocino National Forest, California, to provide for the use of the proceeds from such conveyance for National Forest purposes, and for other purposes (Rept. 108–293). Referred to the Committee of the Whole House on the State of the Union.

Mr. POMBO: Committee on Resources. H.R. 1092. A bill to authorize the Secretary of Agriculture to sell certain parcels of Federal land in Carson City and Douglas County, Nevada; with amendments (Rept. 108–294). Referred to the Committee of the Whole House on the State of the Union.

Mr. POMBO: Committee on Resources. H.R. 1442. A bill to authorize the design and construction of a visitor center for the Vietnam Veterans Memorial; with an amendment (Rept. 108–295). Referred to the Committee of the Whole House on the State of the Union.

Mr. POMBO: Committee on Resources. S. 254. An act to revise the boundary of the Kaloko-Honokohau National Historical Park in the State of Hawaii, and for other purposes (Rept. 108–296). Referred to the Committee of the Whole House on the State of the Union.

PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XII, public bills and resolutions were introduced and severally referred, as follows:

By Mr. SHAYS (for himself, Mrs. MALONEY, Mr. TURNER of Ohio, Mr. TIERNEY, Mr. MURPHY, and Mr. RUPPERSBERGER):

H.R. 3227. A bill to amend the Homeland Security Act of 2002 to direct the Secretary of Homeland Security to establish clearly defined standards and guidelines for Federal, State, and local government emergency preparedness and response capability, and for other purposes; to the Committee on Transportation and Infrastructure, and in addition to the Committee on Homeland Security (Select), for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. SANDERS (for himself, Mr. WAMP, Mr. BURTON of Indiana, Mr. GOODE, Mr. SENSENBRENNER, Mr. MICHAUD, Mr. TAYLOR of Mississippi, Mr. HINCHEY, Mr. CLAY, Mr. PALLONE, Mr. STRICKLAND, Mr. PASCRELL, Mr. KUCINICH, Mr. LIPINSKI, Mr. FILNER, Mr. DEFAZIO, Mr. TAYLOR of North Carolina, Mr. VISCLOSKY, Mr. GREEN of Texas, Mr. EVANS, Mr. RYAN of Ohio, Mr. PETERSON of Minnesota, Mr. FRANK of Massachusetts, Mr. CAPUANO, Mr. COSTELLO, Mr. ABERCROMBIE, Mr. GRIJALVA, Ms. SLAUGHTER, Mr. COBLE, Mr. SMITH of New Jersey, Mr. TOWNS, and Mr. BACA):

H.R. 3228. A bill to withdraw normal trade relations treatment from the products of the People's Republic of China; to the Committee on Ways and Means.

By Mr. NEY (for himself and Mr. LARSON of Connecticut):

H.R. 3229. A bill to amend title 44, United States Code, to transfer to the Public Printer the authority over the individuals responsible for preparing indexes of the Congressional Record, and for other purposes; to the Committee on House Administration.

By Mr. BRADLEY of New Hampshire:

H.R. 3230. A bill to amend the Internal Revenue Code of 1986 to allow a lump sum contribution to Coverdell education savings accounts whenever the contribution limit is increased; to the Committee on Ways and Means.

By Mrs. CAPPS (for herself and Mr. WAXMAN):

H.R. 3231. A bill to amend the Solid Waste Disposal Act to bring underground storage tanks into compliance with subtitle I of that Act, to promote cleanup of leaking underground storage tanks, to provide sufficient resources for such compliance and cleanup, and for other purposes; to the Committee on Energy and Commerce.

By Mr. CASTLE (for himself, Mr. BOEHNER, Mr. GEORGE MILLER of California, and Ms. WOOLSEY):

H.R. 3232. A bill to reauthorize certain school lunch and child nutrition programs for fiscal year 2004; to the Committee on Education and the Workforce.

By Mr. GUTIERREZ:

H.R. 3233. A bill to require financial institutions and financial service providers to notify customers of the unauthorized use of personal information, to amend the Fair Credit Reporting Act to require fraud alerts to be included in consumer credit files in such cases, and to provide customers with enhanced access to credit reports in such cases; to the Committee on Financial Services.

By Mr. HINCHEY (for himself, Mr. ACKERMAN, Mr. BISHOP of New York, Mr. BOEHLERT, Mr. CROWLEY, Mr. ENGEL, Mr. FOSSELLA, Mr. HOUGHTON, Mr. ISRAEL, Mrs. KELLY, Mr. KING of New York, Mrs. LOWEY, Mrs. MALONEY, Mrs. MCCARTHY of New York, Mr. MCHUGH, Mr. MCNULTY, Mr. MEEKS of New York, Mr. NADLER, Mr. OWENS, Mr. QUINN, Mr. RANGEL, Mr. REYNOLDS, Mr. SERRANO, Ms. SLAUGHTER, Mr. SWEENEY, Mr. TOWNS, Ms. VELAZQUEZ, Mr. WALSH, and Mr. WEINER):

H.R. 3234. A bill to designate the facility of the United States Postal Service located at 14 Chestnut Street in Liberty, New York, as the ''Ben R. Gerow Post Office Building''; to the Committee on Government Reform.

By Mr. HUNTER:

H.R. 3235. A bill to amend title 23, United States Code, to withhold highway funds from States that issue drivers' licenses to illegal aliens; to the Committee on Transportation and Infrastructure.

By Mr. KLECZKA (for himself and Mr. ETHERIDGE):

H.R. 3236. A bill to prohibit price gouging of products and services that are widely needed during a designated disaster; to the Committee on Energy and Commerce.

By Mrs. MCCARTHY of New York (for herself, Mr. DINGELL, Mr. TOM DAVIS of Virginia, Mr. CONYERS, Mr. BEREUTER, Mr. STUPAK, Mr. SHAYS, Mr. FERGUSON, Mr. FORD, Mr. KING of New York, Mr. LANGEVIN, Mr. SHAW, Mr. PASCRELL, Mr. CUNNINGHAM, Mrs. TAUSCHER, Mr. FOLEY, Mr. SOUDER, Mr. FRANK of Massachusetts, Mr. MORAN of Virginia, Mr. FROST, Ms. NORTON, Mr. BERMAN, Mr. NADLER, Mr. SCOTT of Virginia, Mr. WATT, Ms. LOFGREN, Mrs. CAPPS, Mr. MCGOVERN, Mr. MCDERMOTT, Mr. ISRAEL, Mr. MEEHAN, Ms. JACKSON-LEE of Texas, Mr. DELAHUNT, Mr. WEXLER, Mr. WEINER, Ms. BALDWIN, Mr. ANDREWS, Mr. EMANUEL, Mr. BISHOP of New York, Mr. SCHIFF, and Mr. CASE):

H.R. 3237. A bill to improve the National Instant Criminal Background Check System, and for other purposes; to the Committee on the Judiciary.

By Mr. MEEK of Florida:

H.R. 3238. A bill to amend the Haitian Refugee Immigration Fairness Act of 1998; to the Committee on the Judiciary.

By Mr. MICHAUD (for himself, Mr. RODRIGUEZ, and Mr. REYES):

H.R. 3239. A bill to amend title 38, United States Code, to delay the termination of the Advisory Committee on Minority Veterans; to the Committee on Veterans' Affairs.

By Mr. NEUGEBAUER:

H.R. 3240. A bill to amend the Intermodal Surface Transportation Efficiency Act of 1991 to designate the La Entrada al Pacifico Corridor in the State of Texas as a high priority corridor on the National Highway System; to the Committee on Transportation and Infrastructure.

By Mr. OSBORNE:

H.R. 3241. A bill to authorize the Secretary of the Interior to conduct a study to determine the feasibility of implementing a water supply and conservation project to improve water supply reliability, increase the capacity of water storage, and improve water management efficiency in the Republican River Basin between Harlan County Lake in Nebraska and Milford Lake in Kansas; to the Committee on Resources.

By Mr. OSE (for himself, Mr. DOOLEY of California, Mr. ACEVEDO-VILA, Mr. ENGLISH, Mr. FILNER, Mrs. KELLY, Mr. KOLBE, Mr. LARSEN of Washington, Mr. MCHUGH, Mr. NUNES, Mr. RADANOVICH, Mr. SCOTT of Georgia, Mr. THOMPSON of California, Mr. GALLEGLY, Mr. CARDOZA, Mr. DEFAZIO, Mr. KINGSTON, Mr. WU, Mr. HINOJOSA, and Mr. FARR):

H.R. 3242. A bill to ensure an abundant and affordable supply of highly nutritious fruits, vegetables, and other specialty crops for American consumers and international markets by enhancing the competitiveness of United States-grown specialty crops, and for other purposes; to the Committee on Agriculture, and in addition to the Committee on Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. RAMSTAD (for himself, Mr. NORWOOD, Mr. BACHUS, Mr. KENNEDY of Rhode Island, Mr. STARK, Mr. PICKERING, Mr. CASTLE, and Mrs. JOHNSON of Connecticut):

H.R. 3243. A bill to amend the Public Health Service Act to establish a State family support grant program to end the practice of parents giving legal custody of their seriously emotionally disturbed children to State agencies for the purpose of obtaining mental health services for those children; to the Committee on Energy and Commerce.

By Mr. RANGEL (for himself, Mr. CARDIN, Ms. PELOSI, Mr. HOYER, Mr. GEORGE MILLER of California, Mr. STARK, Mr. LEVIN, Mr. MCDERMOTT, Mr. KLECZKA, Mr. LEWIS of Georgia, and Mr. NEAL of Massachusetts):

H.R. 3244. A bill to provide extended unemployment benefits to displaced workers, and to make other improvements in the unemployment insurance system; to the Committee on Ways and Means.

By Mr. ROHRABACHER (for himself, Mr. GORDON, and Mr. HALL):

H.R. 3245. A bill to promote the development of the commercial space transportation industry, to authorize appropriations for the Office of the Associate Administrator for Commercial Space Transportation, to authorize appropriations for the Office of Space Commerce, and for other purposes; to the Committee on Science.

By Mr. RYAN of Wisconsin (for himself, Mr. POMEROY, Mr. CAMP, Mr. CRANE, Ms. DUNN, Mr. ENGLISH, Mr. FOLEY, Mr. HERGER, Mr. HULSHOF, Mr. LEWIS of Georgia, Mr. RAMSTAD, Mr. SANDLIN, Mr. ISAKSON, Mr. TURNER of Texas, Mr. TERRY, Mr. TOOMEY, Mr. BACHUS, Mr. GOODE, Mr. WICKER, Mr. WU, Mr. SHUSTER, Mr. GREEN of Wisconsin, Mr. WELDON of Florida, Mr. WALDEN of Oregon, Mr. OTTER, Mr. BONNER, Mr. STUPAK, Mr. GEORGE MILLER of California, Mr. SOUDER, Mr. PITTS, Mr. TAYLOR of North Carolina, Mr. QUINN, Mr. RYUN of Kansas,

Mr. BURTON of Indiana, Mr. NEUGEBAUER, Mr. MCHUGH, Mr. UPTON, Mr. CANNON, Mr. SHAYS, Mr. LUCAS of Kentucky, Mr. VITTER, Mr. BERRY, Mr. TIBERI, Mrs. MYRICK, Mr. STENHOLM, Mr. BURR, Mr. PAUL, Mr. PEARCE, Mr. SIMPSON, Mr. SIMMONS, Mr. ISTOOK, Ms. VELAZQUEZ, Mr. DAVIS of Tennessee, Mr. MORAN of Kansas, Mr. ROGERS of Kentucky, Mr. EHLERS, Mr. PETRI, Mr. BOEHNER, Mr. GERLACH, Mr. MANZULLO, Mr. FLAKE, Mr. TOM DAVIS of Virginia, Ms. HART, Mr. DEMINT, Mr. SULLIVAN, Mr. RENZI, Mr. ROGERS of Michigan, Mr. LAHOOD, Mr. ROSS, Mr. FORBES, Mr. CARTER, Mr. WILSON of South Carolina, Mr. OXLEY, Mr. GOODLATTE, Mr. BASS, Mrs. JONES of Ohio, Mr. PUTNAM, Mr. MICHAUD, Mr. GREEN of Texas, Mr. SESSIONS, and Mr. AKIN):

H.R. 3246. A bill to amend the Internal Revenue Code of 1986 to provide that certain mobile machinery not be treated as highway vehicles; to the Committee on Ways and Means.

By Mr. TANCREDO (for himself, Mr. MCINNIS, and Mr. UDALL of Colorado):

H.R. 3247. A bill to provide consistent enforcement authority to the Bureau of Land Management, the National Park Service, the United States Fish and Wildlife Service, and the Forest Service to respond to violations of regulations regarding the management, use, and protection of public lands under the jurisdiction of these agencies, to clarify the purposes for which collected fines may be used, and for other purposes; to the Committee on Resources, and in addition to the Committee on Agriculture, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mrs. WILSON of New Mexico:

H.R. 3248. A bill to amend the National Foundation on the Arts and the Humanities Act of 1965 to make available additional funds to increase access to the arts through the support of education; to the Committee on Education and the Workforce.

By Mr. HAYES (for himself and Mr. MCHUGH):

H. Con. Res. 291. Concurrent resolution expressing deep gratitude for the valor and commitment of the members of the United States Armed Forces who were deployed in Operation Restore Hope to provide humanitarian assistance to the people of Somalia in 1993; to the Committee on Armed Services.

By Mrs. NAPOLITANO:

H. Con. Res. 292. Concurrent resolution expressing the sense of Congress that Congress should adopt and implement the goals and recommendations provided by the President's New Freedom Commission on Mental Health through legislation or other appropriate action to help ensure affordable, accessible, and high quality mental health care for all Americans; to the Committee on Energy and Commerce.

By Mr. CUNNINGHAM:

H. Con. Res. 293. Concurrent resolution supporting the goals and ideals of God Bless America Week; to the Committee on the Judiciary.

By Mr. DEUTSCH:

H. Con. Res. 294. Concurrent resolution addressing the decision by OPEC countries to decrease oil production; to the Committee on International Relations.

By Mr. DAVIS of Alabama (for himself and Mr. BACHUS):

H. Res. 389. A resolution honoring the young victims of the Sixteenth Street Baptist Church bombing, recognizing the historical significance of the tragic event, and commending the efforts of law enforcement personnel to bring the perpetrators of this crime to justice on the occasion of its 40th anniversary; to the Committee on the Judiciary.

By Mr. BEREUTER (for himself, Mr. LANTOS, Mr. WEXLER, and Mrs. JO ANN DAVIS of Virginia):

H. Res. 390. A resolution recognizing the continued importance of the transatlantic relationship and promoting stronger relations with Europe by reaffirming the need for a continued and meaningful dialogue between the United States and Europe; to the Committee on International Relations.

By Mr. JOHNSON of Illinois:

H. Res. 391. A resolution congratulating the University of Illinois Fighting Illini men's tennis team for its successful season; to the Committee on Education and the Workforce.

ADDITIONAL SPONSORS

Under clause 7 of rule XII, sponsors were added to public bills and resolutions as follows:

H.R. 25: Mr. BARTLETT of Maryland.
H.R. 135: Mr. GARY G. MILLER of California.
H.R. 284: Mr. EMANUEL.
H.R. 339: Mrs. CAPITO.
H.R. 369: Mr. DAVIS of Tennessee.
H.R. 371: Mr. MCHUGH, Mr. WELDON of Pennsylvania, Mr. WALSH, and Mr. KING of New York.
H.R. 375: Mr. JEFFERSON and Mr. THOMPSON of Mississippi.
H.R. 434: Mr. KINGSTON, Mr. HYDE, Mr. GINGREY, Mr. WAMP, and Mr. CAMP.
H.R. 466: Mr. GARY G. MILLER of California.
H.R. 486: Mr. DEMINT, Mr. HOSTETTLER, and Mr. SULLIVAN.
H.R. 548: Mr. BURTON of Indiana and Mr. GARY G. MILLER of California.
H.R. 583: Mr. WELLER.
H.R. 687: Mr. JOHNSON of Illinois, Mr. CRANE, and Mr. FOLEY.
H.R. 693: Mr. HOLDEN, Mr. MARSHALL, Mr. MCCOTTER, Mr. CONYERS, Mr. HINCHEY, and Mr. WICKER.
H.R. 742: Mr. JONES of North Carolina.
H.R. 751: Mr. TANCREDO.
H.R. 791: Mr. MARSHALL.
H.R. 802: Mr. LOFGREN.
H.R. 808: Mr. FOLEY.
H.R. 816: Mr. SCOTT of Georgia.
H.R. 839: Mr. THOMPSON of Mississippi, Mr. WELLER, and Mr. CAPUANO.
H.R. 857: Mr. KIRK.
H.R. 870: Mr. ISTOOK, Mr. BAIRD, and Ms. CARSON of Indiana.
H.R. 919: Mr. SWEENEY and Mr. DOOLEY of California.
H.R. 920: Mr. LIPINSKI.
H.R. 953: Mr. GINGREY.
H.R. 973: Mr. BISHOP of New York, Mrs. MCCARTHY of New York, and Mr. LEWIS of Kentucky.
H.R. 990: Mr. SESSIONS, Mr. REHBERG, Mr. PEARCE, and Mr. HENSARLING.
H.R. 995: Mr. GREEN of Texas.
H.R. 1005: Mr. SIMPSON.
H.R. 1068: Mr. BLUMENAUER, Mr. MANZULLO, and Mr. QUINN.
H.R. 1117: Mr. SENSENBRENNER.
H.R. 1136: Mr. EHLERS and Ms. WATSON.
H.R. 1214: Mr. OBERSTAR and Mr. JENKINS.
H.R. 1250: Mr. MCCOLLUM and Mr. CHOCOLA.
H.R. 1258: Mr. ANDREWS.
H.R. 1264: Mrs. MCCARTHY of New York.
H.R. 1294: Mr. DOGGETT.
H.R. 1323: Mr. GREEN of Wisconsin.
H.R. 1336: Mrs. MUSGRAVE, Mr. HOEKSTRA, Mr. LINCOLN DIAZ-BALART of Florida, Mr. KELLER, Mrs. EMERSON, and Mrs. CAPITO.
H.R. 1430: Mr. MORAN of Kansas, and Mrs. LOWEY.
H.R. 1466: Mr. STUPAK and Mr. MICHAUD.
H.R. 1475: Mr. HOUGHTON.
H.R. 1508: Mr. SCHIFF.
H.R. 1519: Mr. KOLBE.
H.R. 1523: Mr. SHIMKUS.
H.R. 1643: Mr. SHIMKUS, Mr. FORBES, and Mr. BALLANCE.
H.R. 1660: Mr. NORWOOD, Mr. BARTLETT of Maryland, and Mr. BURTON of Indiana.
H.R. 1676: Mr. BLUMENAUER, Mr. CLAY, and Mr. SHAYS.
H.R. 1684: Mr. HONDA, Mr. JACKSON of Illinois, and Ms. MILLENDER-MCDONALD.
H.R. 1708: Mr. GREENWOOD and Mr. KING of New York.
H.R. 1738: Mr. LYNCH.
H.R. 1742: Mr. HINOJOSA.
H.R. 1811: Mr. ROSS, Mr. DREIER, Mrs. MYRICK, Mr. NORWOOD, and Mr. PASTOR.
H.R. 1819: Mr. LUCAS of Kentucky.
H.R. 1824: Mr. PORTER, Mr. CASE, Mr. GREEN of Texas, Mr. WOLF, Mrs. BLACKBURN, Mr. MCGOVERN, and Mr. FRANK of Massachusetts.
H.R. 1886: Ms. DEGETTE, Mr. CONYERS, Mr. EDWARDS, Mr. LAMPSON, Mr. GALLEGLY, Mr. KUCINICH, Ms. SOLIS, Mr. QUINN, Mr. BURTON of Indiana, Mr. PASCRELL, Mr. SMITH of Washington, and Mr. DOOLEY of California.
H.R. 1896: Mr. PETERSON of Minnesota.
H.R. 1914: Mr. GREEN of Wisconsin and Mr. MOORE.
H.R. 1958: Mr. SNYDER.
H.R. 2034: Mr. HOEKSTRA and Mr. SESSIONS.
H.R. 2038: Mrs. NAPOLITANO and Ms. MILLENDER-MCDONALD.
H.R. 2045: Mr. GRAVES, Mr. ISAKSON and Mrs. EMERSON.
H.R. 2052: Mr. INSLEE, Mr. RODRIGUEZ, Mr. CAPUANO and Ms. PELOSI.
H.R. 2093: Mr. MCINTYRE.
H.R. 2130: Mr. SMITH of New Jersey, Mr. SAXTON, Mr. PASCRELL, and Mr. PAYNE.
H.R. 2133: Mr. WOLF.
H.R. 2178: Mr. DAVIS of Florida, Mr. POMEROY, Mr. FOLEY, and Mr. HULSHOF.
H.R. 2180: Mr. BURGESS.
H.R. 2203: Mr. OBEY.
H.R. 2239: Mr. SMITH of Washington, Mr. HONDA, Mr. ROSS, Mr. UDALL of New Mexico, and Ms. EDDIE BERNICE JOHNSON of Texas.
H.R. 2327: Mr. SOUDER, Mr. MORAN of Virginia and Mrs. JO ANN DAVIS of Virginia.
H.R. 2359: Mr. BEREUTER and Mr. BALLENGER.
H.R. 2379: Mr. JANKLOW.
H.R. 2394: Mr. WEXLER, Mr. MCNULTY, and Mr. HOLDEN.
H.R. 2456: Mr. CARDIN.
H.R. 2490: Mrs. LOWEY.
H.R. 2505: Mr. MORAN of Virginia.
H.R. 2512: Mr. ENGLISH and Mr. FEENEY.
H.R. 2548: Mr. CANNON.
H.R. 2579: Mr. NEUGEBAUER and Mr. BISHOP of Georgia.
H.R. 2592: Ms. MILLENDER-MCDONALD, Mr. MCDERMOTT, Ms. LEE, Mr. GALLEGLY, Mr. DOOLITTLE, Mr. BISHOP of Georgia, and Mr. PAYNE.
H.R. 2614: Mr. BISHOP of New York.
H.R. 2615: Mr. SNYDER.
H.R. 2699: Mrs. CAPITO, Mr. POMBO, Mr. BLUNT, and Mr. KENNEDY of Minnesota.
H.R. 2705: Mrs. JONES of Ohio, Mr. BRADY of Pennsylvania, Mr. MCDERMOTT, and Ms. CORRINE BROWN of Florida.
H.R. 2719: Ms. BERKLEY, Mrs. MCCARTHY of New York, Mr. MEEKS of New York, Mr. JANKLOW, Mr. SCHROCK, Mr. DOOLITTLE, and Mr. LINCOLN DIAZ-BALART of Florida.
H.R. 2720: Mr. UPTON, Mr. PAYNE, Mrs. MCCARTHY of New York, Mr. SOUDER, and Mr. KUCINICH.
H.R. 2743: Mr. HERGER.
H.R. 2768: Mr. CROWLEY, Mr. SESSIONS, Mr. CAPUANO, Mr. HINCHEY, Mr. CARSON of Oklahoma, Mr. MCGOVERN, Mr. PEARCE, Mr. HULSHOF, Mr. MCDERMOTT, Mr. LAMPSON, Ms. SLAUGHTER, and Mr. TOWNS.

H.R. 2792: Mr. SMITH of New Jersey.
H.R. 2808: Mr. JANKLOW and Mr. OWENS.
H.R. 2811: Mr. DAVIS of Tennessee.
H.R. 2832: Mr. BRADY of Pennsylvania and Mr. MCGOVERN.
H.R. 2851: Mr. HOSTETTLER.
H.R. 2853: Mr. BERMAN, Mr. KENNEDY of Rhode Island, and Mr. STARK.
H.R. 2868: Mr. GRIJALVA.
H.R. 2878: Mr. CASE.
H.R. 2885: Mr. GOODE.
H.R. 2898: Mr. HOLDEN.
H.R. 2900: Mr. LUCAS of Kentucky, Mr. ROSS, Mr. PETERSON of Minnesota, Mr. MILLER of Florida, Mr. MARSHALL, and Mr. SHAW.
H.R. 2978: Mr. CARSON of Oklahoma, Mr. ROSS, Mr. OSBORNE, Mr. SMITH of Michigan, and Mr. KINGSTON.
H.R. 2983: Ms. LEE.
H.R. 2986: Mr. BARTON of Texas, Mr. THOMPSON of Mississippi, and Mr. BRADLEY of New Hampshire.
H.R. 2998: Mr. SHUSTER, Mr. BARRETT of South Carolina, Mr. LATOURETTE, Mr. WEXLER, Mr. ENGEL, Mr. BROWN of South Carolina, Mr. RYUN of Kansas, Mrs. MCCARTHY of New York, Mr. TANCREDO, and Mr. FOLEY.
H.R. 2999: Mr. BUYER, Mr. CUNNINGHAM, Mr. GINGREY, Mr. RENZI, Mr. WELDON of Florida, Mr. BARTLETT of Maryland, Mr. TERRY, Mr. RYUN of Kansas, and Mr. AKIN.
H.R. 3002: Mr. NORWOOD.
H.R. 3004: Ms. WATSON.
H.R. 3010: Mr. OWENS.
H.R. 3012: Mr. SWEENEY, Mrs. KELLY, Mr. REYNOLDS, Mr. MCHUGH, Mr. RANGEL, and Ms. VELAZQUEZ.
H.R. 3051: Mr. CUMMINGS, Ms. KILPATRICK, Mr. GREEN of Texas, Mr. ISRAEL, Ms. NORTON, and Mrs. KELLY.
H.R. 3052: Mr. GINGREY and Mr. WAMP.
H.R. 3075: Mr. RENZI.
H.R. 3094: Mr. BISHOP of New York and Mr. MILLER of Florida.
H.R. 3109: Ms. JACKSON-LEE of Texas, Mr. BISHOP of Georgia, Ms. KAPTUR, Mr. SHIMKUS, and Ms. EDDIE BERNICE JOHNSON of Texas.
H.R. 3119: Mr. BOSWELL, Mr. LAHOOD, Mr. LEACH, Mr. SHIMKUS, Mr. DAVIS of Tennessee, Mr. GORDON, and Mr. REHBERG.
H.R. 3120: Ms. NORTON.
H.R. 3123: Mr. OWENS.
H.R. 3130: Mr. BISHOP of Utah, Mr. BARRETT of South Carolina, Mr. BURTON of Indiana, Mr. AKIN, and Mr. VITTER.
H.R. 3132: Mr. REYES.
H.R. 3134: Mrs. MYRICK.
H.R. 3140: Mr. DAVIS of Florida.
H.R. 3154: Ms. HARRIS and Mr. ABERCROMBIE.
H.R. 3165: Mr. BEREUTER.
H.R. 3178: Ms. NORTON, Mr. BLUMENAUER, Ms. LEE, Mr. WELDON of Pennsylvania, Mr. FROST, and Mr. COSTELLO.
H.R. 3184: Mr. FROST.
H.R. 3191: Mr. AKIN, Mr. KING of Iowa, Mr. TANCREDO, Mr. SAM JOHNSON of Texas, Mrs. MYRICK, Mr. HERGER, Mr. HOEKSTRA, Mr. CHOCOLA, Mr. SHADEGG, Mr. HOSTETTLER, Mr. PENCE, Mrs. BLACKBURN, Mr. GARRETT of New Jersey, Mr. KLINE, Mr. TAYLOR of Mississippi, and Mr. HALL.
H.R. 3193: Mr. DOOLITTLE, Mr. BARTLETT of Maryland, Mr. COLLINS, Mr. ROGERS of Alabama, Mr. BRADLEY of New Hampshire, Mr. HERGER, Mr. MCCOTTER, Mr. KING of Iowa, Mr. BALLENGER, Mr. WICKER, Mr. CUNNINGHAM, Mrs. MUSGRAVE, Ms. GINNY BROWN-WAITE of Florida, Mr. HAYES, Mr. GRAVES, Mr. FRANKS of Arizona, Mr. FEENEY, Mr. GIBBONS, Mr. PICKERING, Mr. CHOCOLA, Mr. PEARCE, Mr. BARRETT of South Carolina, Mr. MCINTYRE, Mr. TANNER, Mr. MILLER of Florida, Mr. HOSTETTLER, Mr. HUNTER, Mr. RAHALL, Mr. AKIN, Mr. BONNER, Mr. BACA, Mr. CANTOR, Mr. BROWN of South Carolina, and Mr. BOOZMAN.
H.R. 3200: Ms. GINNY BROWN-WAITE of Florida, Mr. OSE, and Mrs. WILSON of New Mexico.
H.R. 3208: Mr. ACEVEDO-VILA and Mr. KING of New York.
H.R. 3214: Mr. HOSTETTLER, Mr. EHLERS, Ms. DELAURO, and Ms. WATSON.
H.R. 3215: Mr. KIRK and Mrs. BLACKBURN.
H.J. Res. 22: Mr. TANCREDO.
H.J. Res. 62: Mr. TIERNEY.
H. Con. Res. 47: Ms. MCCOLLUM.
H. Con. Res. 86: Mr. OLVER.
H. Con. Res. 94: Mr. GIBBONS, Mr. NETHERCUTT, Mr. LUCAS of Kentucky, Mr. LEWIS of Kentucky, Ms. ESHOO, Mr. MCDERMOTT, Mr. LATHAM, Mr. RYAN of Kansas, Mr. KENNEDY of Rhode Island, Mr. JANKLOW, Mr. DOGGETT, Mr. NEUGEBAUER, Mr. PASTOR, and Mr. HOEFFEL.
H. Con. Res. 117: Mr. TANCREDO.
H. Con. Res. 242: Mr. ROTHMAN, Mr. SAXTON, Mr. HINCHEY, and Mr. WYNN.
H. Con. Res. 247: Mr. TERRY.
H. Con. Res. 252: Mr. BISHOP of Georgia, Mr. RYAN of Ohio, Ms. ESHOO, and Mr. ALEXANDER.
H. Con. Res. 264: Mr. KENNEDY of Rhode Island.
H. Con. Res. 275: Mr. DEUTSCH.
H. Con. Res. 280: Mr. RYUN of Kansas, Mr. RAMSTAD, Mr. BURGESS, Mr. HILL, Mrs. NORTHUP, Mr. BOUCHER, Mr. SOUDER, and Mr. BACA.
H. Con. Res. 285: Mr. KENNEDY of Minnesota.
H. Res. 133: Mr. TERRY.
H. Res. 157: Mr. SABO.
H. Res. 261: Mr. WALDEN of Oregon, Mr. HINOJOSA, and Mr. DEUTSCH.
H. Res. 304: Mr. TERRY and Mr. LUCAS of Kentucky.
H. Res. 320: Mr. SHERMAN.
H. Res. 364: Mr. SHERMAN, Mr. ISRAEL, Ms. WOOLSEY, Mr. SMITH of Washington, and Ms. DEGETTE.
H. Res. 373: Ms. DELAURO, Mr. VAN HOLLEN, Mr. MORAN of Virginia, Mr. FROST, Mr. MCGOVERN, Mr. OLVER, Mr. WYNN, Ms. BALDWIN, and Mr. FILNER.
H. Res. 378: Mr. MCCRERY, Mr. BASS, and Mr. MCGOVERN.
H. Res. 384: Mr. CUMMINGS, Ms. WATSON, Mrs. CHRISTENSEN, Mr. SMITH of Washington, Mr. MEEK of Florida, Ms. WATERS, Mr. HASTINGS of Florida, Mrs. TAUSCHER, Mr. LANTOS, Mr. GREEN of Texas, Mr. PASTOR, Ms. CARSON of Indiana, and Ms. DELAURO.
H. Res. 387: Mr. FOLEY, Mr. CARSON of Oklahoma, Ms. CARSON of Indiana, Mr. GILLMOR, Mr. MATSUI, Mr. BELL, Mr. MORAN of Virginia, Ms. SLAUGHTER, Mr. GONZALEZ, Mr. CAPUANO, Mr. DAVIS of Alabama, Mr. WATT, Mr. ACKERMAN, Mrs. MALONEY, Mr. STENHOLM, Mr. TANNER, Mr. DAVIS of Tennessee Mr. ETHERIDGE, Mr. KIND, Mrs. BIGGERT, Mr. MICHAUD, Mr. CONYERS, Mr. HOLT, Mr. CLYBURN, Mr. CRAMER, Mr. WEXLER, Mr. DAVIS of Florida, Ms. HARMAN, Mr. SANDERS, Mr. LANTOS, Mr. EDWARDS, Mr. BOOZMAN, Mr. THOMPSON of California, and Mr. SHERMAN.

DELETIONS OF SPONSORS FROM PUBLIC BILLS AND RESOLUTIONS

Under Clause 7 of rule XII, sponsors were deleted from public bills and resolutions as follows:

H.R. 2022: Mr. GEORGE MILLER of California.

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of America

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PROCEEDINGS AND DEBATES OF THE 108th CONGRESS, FIRST SESSION

Vol. 149 WASHINGTON, THURSDAY, OCTOBER 2, 2003 *No. 138*

Senate

The Senate met at 9:30 a.m. and was called to order by the Hon. JOHN E. SUNUNU, a Senator from the State of New Hampshire.

PRAYER

The Chaplain, Dr. Barry C. Black, offered the following prayer:

Let us pray:

Our Father and our God, we come today seeking a deeper understanding of Your ways. Life often seems like a difficult riddle, but in spite of its challenges, You sustain us with Your majesty and Your indestructible love. Lord, forgive us when we think too often of ourselves and forget the pain of those around us. Thank You for hearing our prayers and for extending Your scepter of mercy. Make us willing to pay the price for freedom. May we remember that laudable goals usually require real effort and self-denial.

We bring to You the Members of this body. Empower them to bear the weight of responsibility. Give them the desire to honor You. Fill their hearts with gratitude for Your unfolding providence. Evaporate their fears like the morning mist. Help each of us to walk with our hand in Your hand. Remind us that only by doing Your will can we find true peace.

We pray this in Your Holy Name. Amen.

PLEDGE OF ALLEGIANCE

The Honorable JOHN E. SUNUNU led the Pledge of Allegiance, as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. STEVENS).

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, D.C., October 2, 2003.

To the Senate:

Under the provisions of Rule I, paragraph 3, of the Standing Rules of the Senate, I hereby appoint the Honorable JOHN E. SUNUNU, a Senator from the State of New Hampshire, to perform the duties of the Chair.

TED STEVENS,
President pro tempore.

Mr. SUNUNU thereupon assumed the Chair as Acting President pro tempore.

RECOGNITION OF THE MAJORITY LEADER

The ACTING PRESIDENT pro tempore. The majority leader is recognized.

SCHEDULE

Mr. FRIST. Mr. President, this morning the Senate will be in a period of morning business for 60 minutes. Following that time, the Senate will resume consideration of the supplemental appropriations for Iraq security. Pending will be the McConnell amendment, which is a sense of the Senate supporting our troops. There will be 40 minutes remaining for debate on that amendment and therefore that vote will occur shortly after 11 a.m. this morning.

Following that vote, we will resume debate on the Biden amendment on tax rates. I understand there are a number of Members on both sides of the aisle who will want to speak to that amendment. Additional votes will occur throughout the day as we work through the pending amendments.

I thank the two managers for their efforts thus far. I believe there is an understanding to rotate back and forth on the amendments and that will help to keep an orderly process throughout.

I look forward to another day of constructive debate, and I encourage Members to communicate with the chairman and ranking member if they desire to offer an amendment to the bill. We need to work through these amendments in a sequential way, one at a time, so it is helpful if Senators will work in advance to schedule consideration of their amendments.

In addition, there are four judges who are ready for consideration. I look forward to talking to the leadership on the other side of the aisle as to an appropriate time that we can schedule votes for them as well.

RECOGNITION OF THE ACTING MINORITY LEADER

The ACTING PRESIDENT pro tempore. The assistant minority leader is recognized.

THE SENATE CHAPLAIN

Mr. REID. Mr. President, while the majority leader is on the floor, I was thinking of the words spoken by the Chaplain this morning. It came to my mind that there haven't been enough accolades extended. There were others involved, but the two I know involved were you and Senator MIKULSKI, working to have this fine man brought here as the Senate Chaplain.

I have been able to visit with him on a couple of occasions and of course every morning to hear the wonderful prayers he utters on behalf of the Senate and the country. I simply want to extend thanks to Senator MIKULSKI and you and any others involved in this selection. Here is a man who is qualified to do so many different things. There aren't many people who can be referred to as ''doctor,'' ''chaplain,'' ''admiral,'' but Dr. Black can be, because he is all three and probably a lot more.

So I think, even though so much goes unsaid around here, this is something that should be said. This is a great addition to the Senate family. I, on behalf of the entire Senate, extend my

appreciation to you and Senator MIKULSKI, who was so enthused about this man when she told us who the chaplain was going to be.

Mr. FRIST. Mr. President, I very much appreciate the comments by the assistant Democratic leader. I will just briefly add to that, because so many of our colleagues do have the opportunity to be with the Chaplain in many ways that America doesn't see. Just two nights ago we were at an event for adoption from foster homes. Our colleagues and others see the Chaplain open this body every day. That is something that is apparent. What they don't see is the fellowship, the contributions, the nights, like two nights ago, where the Chaplain represented, yes, the Senate; yes, the Congress; but indeed the United States at events at night, giving the invocation before 900 people, 6 blocks from here in the Reagan Building.

He is the 62nd Chaplain, a great heritage to follow. We are delighted to be able to have his fellowship, his leadership, and his counsel as we go forth each day.

RESERVATION OF LEADER TIME

The ACTING PRESIDENT pro tempore. Under the previous order, the leadership time is reserved.

MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, there will be a period for morning business for up to 60 minutes, with the first 30 minutes of the time under the control of the Senator from Texas, Mrs. HUTCHISON, or her designee, the second 30 minutes of time under the control of the Democratic leader or his designee.

The Senator from Utah.

Mr. BENNETT. On behalf of the Senator from Texas, Mrs. HUTCHISON, I yield 5 minutes to the Senator from Oklahoma.

The ACTING PRESIDENT pro tempore. Without objection, the Senator from Oklahoma is recognized for 5 minutes.

THE CONFIRMATION HEARING FOR GOVERNOR LEAVITT

Mr. INHOFE. It is my intention, Mr. President, to come down here and share something that happened last Tuesday that has never happened before in the history of this institution. I chair the Environment and Public Works Committee. We had a confirmation hearing for Governor Leavitt from Utah, a highly qualified nominee by the President to be administrator of the EPA. The Democrats boycotted the meeting. They obstructed the meeting just by boycotting it, not showing up. I am going to be talking later on today about that, but it is my intention now to talk about the subject the Senator from Utah and the Senator from Texas have before us, because it has such great ramifications to our Nation's security.

SUPPLEMENTAL APPROPRIATIONS FOR IRAQ SECURITY

Mr. INHOFE. The whole issue of the $87 billion is so misunderstood by most of the American people, I would like to try to put it in a context that is more understandable. First of all, you are talking about $87 billion, of which $66 billion is going back into the military. Most of that is rebuilding the military for what happened to the military during the 1990s, and to rebuild it, to get us up to be able to meet the challenges that are very serious today. I would like to go into more detail on that, but there is not time in this 5 minutes.

But I would say this, of the $87 billion—and you take away the $66 billion—we are talking about $20 billion, less $5 billion. It is very important we understand this; $5 billion of this will be going toward border security, having nothing to do with rebuilding infrastructure, rebuilding any of the water systems, electrical systems, the highways, the other infrastructure systems we are going to have to get done.

It leaves $15 billion.

The big discussion here is—and I know it sounds good to the American people and it sounds good to my wife—with all of the potential oil revenues, why don't we restructure this as a loan as opposed to a grant? There is very good reason for that.

CSIS has come up with an analysis of the debt that is owed currently by Iraq. It is not just $140 billion or the $200 billion figure you have heard. When you put the claims in there that would have to be subordinate to the $383 billion, if we do restructure this as a loan, it would come in only after $383 billion has been repaid by some source. We all know logically that would never ever happen. But the rewards of expending this $15 billion and doing it quickly, as the President is requesting, are immense. To have a friend in that country of Iraq in the Middle East would have a great benefit for us.

When you stop to think about just the cost of petroleum for the no-fly zone, that amounts to $15 billion each decade. If we don't do this, we are going to be right back in that box where we didn't finish the job we should have finished in 1991 and 1996. Now is the time to finish the job.

I suggest to you that the greatest disservice we could do to our troops on the ground over in Iraq would be to stall this thing, to not get over there and put the necessary money in to fix the infrastructure.

I am not sure how many people in this body know how much our troops are doing. They are actually putting roofs on buildings, they are actually constructing houses, and they are doing things on their own with their own labor. They desperately need to have us come in and make the necessary fixes.

We have had a success story. My gosh, we have had over 5,000 businesses started. The hospitals and clinics are now open. The schools opened 2 days ago, and 56,000 Iraqis are now working in the security control system.

All of this can continue only if we get the $15 billion over there for the reparations and to take care of the infrastructure. If we don't do that, we are leaving our troops out there in a very dangerous situation.

I would like for everyone to remember their history a little bit.

The Treaty of Versailles was in 1919, at the end of World War I. France insisted on leaving $32 billion in debt for the Germans to pay. As a result of being covered up with debt and knowing there was no possible way out, they became ripe for Hitler to come along. And we know the rest of the story.

That is the same situation we are facing in Iraq right now. If we don't come to the table with the $15 billion and get in there and start repairing the infrastructure and continue the success we have had so far, and do it immediately, then we are going to leave our troops hanging out there to dry.

For the sake of national security, the most significant thing we probably will be dealing with—certainly in this year and maybe during our entire careers—is to get the money in there and get the job done, and this time not do what we did in 1991 or 1996 but finish the job and bring this country back up so it can be our ally in the Middle East.

I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Utah.

Mr. BENNETT. Mr. President, one of the anecdotes about politics I enjoy the most and that I think is most illustrative of some of the situation that is going on now with respect to Iraq relates to the late Pauline Kael. She was the movie editor for the New Yorker magazine. In 1972, when Richard Nixon won an overwhelming and historic victory in the Presidential election, carrying every single State except Massachusetts and the District of Columbia, Pauline Kael was terribly surprised. She said when commenting on this: Nixon can't possibly have won. I don't know a single person who voted for him.

There might be some who will say that speaks well of her circle of friends, but it demonstrates that she lived in a very tight intellectual circle and had no real contact with what was happening in the country as a whole.

I cite that because I think that is what is happening with respect to reporting in Iraq right now. I had an experience over the weekend which I will share briefly before I yield the remainder of our morning business time to the Senator from Texas.

An old friend from Utah and his wife came to Washington on a tourist visit, and I took them around to the various monuments. This man and his wife expressed great concern about Iraq. The wife said: We have real problems in

Iraq. I said: Yes, we do. Tell me what they are, from your perspective.

She said: People are dying all the time, and we are making no progress whatsoever, and we have no plan of making progress. We are in real trouble in Iraq. I said to her: Let me ask you a few things. I said: Are you aware of the fact that about 90 percent of the country is peaceful and that the attacks on Americans are taking place only in what is known as the Sunni Triangle, which goes from Baghdad to Tikrit, and that outside of the Sunni Triangle Americans are not being attacked and killed? She said: No, I didn't know that.

I said: Which country do you think is providing the most troops other than America to help fight for security in Iraq? She said: I guess it is the British. I said: No, it is not the British. Not the British? Is there another country that has more troops in Iraq fighting for Iraq besides the British? I said: Yes. It is the Iraqis. She said: What do you mean? Why, there are close to 50,000 Iraqis under arms providing security support for Americans. She said: I didn't know that.

I said: How many schools do you think have been reopened since the war? She said: I assume probably none. I said: No. I said: 90 percent of the schools and hospitals are now operating. She said: I didn't know.

I will not prolong the time because the Senator from Texas wishes to speak. But the point is that we have in the American press today a lot of Pauline Kaels, someone who said, I don't know a single person who voted for Richard Nixon, in the face of the most historic landslide we had with Richard Nixon. We have press people who are telling us what is going on in Iraq who don't know anybody who has anything good to say about what is going on in Iraq.

I have said before and I will conclude with this: During the height of hostilities in Iraq, to watch television, it was clear we were losing the war on CNN. But, fortunately, we won it on Fox. Ultimately, the fact that we won came through even to the CNN executives.

I think the good things that are happening in Iraq will eventually come through, even to the people at CNN and the New York Times and some of the other places that are living in a Pauline Kael world.

I yield the remainder of our morning business time to the Senator from Texas.

The ACTING PRESIDENT pro tempore. The Senator from Texas.

Mr. CORNYN. Mr. President, I inquire how much time remains on our side.

The ACTING PRESIDENT pro tempore. The Senator from Texas has 20 minutes remaining.

Mr. CORNYN. I thank the President, and I thank the Senator from Utah for the courtesy and the opportunity to rise to say a few words about the President's budget request.

I want to be clear about this. The sooner we accomplish our mission of securing Iraq and freeing the economy and stabilizing the government, the sooner our young men and women will be able to come home and we can turn Iraq over to the Iraqis so that they can enjoy the blessings of self-government and liberty.

By the same token, the longer we delay in voting on this supplemental request, the longer we delay in getting money that is needed both to support our troops and to restructure that troubled region and the longer it will be before our troops will be able to come home to their families. Slowing this funding request merely delays the return of our troops from harm's way. And that should not be the role of the Senate, either unintentionally or otherwise.

We all know that the Congress voted to authorize the President to use necessary force to remove Saddam Hussein's regime last November. But there are some in this body today who appear to be playing the politics of the moment, making claims that seem to exploit for political gain the hardships that our military is enduring in serving the cause of freedom. This is nothing more than crass political games. They certainly have no place in this body.

I have the utmost respect and regard for my fellow Senators. Yet I must confess that I am dumbfounded at how soon some have appeared to forget the truth of Saddam's vile regime. The fundamental question we ought to be asking is, Are the Iraqi people better off today than they were under Saddam's regime? The answer to that is unequivocally yes. Are the American people safer today than they were when Saddam was in power? Again, the answer is unequivocally yes. The only remaining question is, Have we finished the job we started with Saddam's ouster? The answer to that question is no. But we must and we will.

I had the honor of traveling to Iraq with members of the Senate Armed Services Committee last June. I was sickened by the inhumanity evidenced by the mass graves, holding some 300,000 Iraqis and others who were victims of Saddam's regime. I was also shocked to learn from a U.N. representative that there are some 1.5 million people simply missing. We do not know whether they are dead or alive.

The suggestion in the face of these silent witnesses that Iraq, the Middle East, indeed the entire free world, are not better off today than before we took Saddam down is simply false.

Today there is religious freedom and human rights in Iraq unlike anything experienced during Saddam's regime. The Iraqi people now have hope, they have a future, something that must have seemed only like a dream to them a few short months ago.

I am proud to commend President Bush for the resolute leadership that he has demonstrated in pursuing the war on terror both in Iraq and around the world. Everyone who has been engaged in this fight, whether it is the most junior recruit or the Commander in Chief, is doing a remarkable job under extraordinarily difficult circumstances. I strongly believe we must remain committed to finishing the job in Iraq by supporting this supplemental.

I ask those who oppose this supplemental or who want to slow it down or who want to cut it in pieces and engage in lengthy delay, what is the message America sends to our enemies in the war on terror if we are shaken in our commitment? Do we doubt our mission so easily? Do our international commitments mean so little? We did not undertake the war against terror because it was easy. We undertook it because it was the right thing to do, because it was necessary to make America safer.

As I said, there are some in the Senate who have advocated separating the moneys requested in this $87 billion supplemental between assistance to the troops and reconstruction of Iraq. I am opposed to any such separation and I am glad we voted down an amendment yesterday on that issue. Some argue that we should loan the money to Iraq instead of providing it to Iraq in the form of a grant—that is, that portion that should go to reconstruction. If we are to get our young men and women in uniform back home as soon as possible, which should be our goal, and turn the government over to the Iraqi people as soon as possible, which should also be our goal, we should not allow for any delay in the delivery of these funds.

General Abizaid, the CENTCOM commander, testified before the Senate Armed Services Committee that these reconstruction funds are inextricably intertwined with the security of our men and women on the ground.

I also believe it would be foolish to extract what would be only an illusory guarantee of loan repayment, and the delay in getting such loan funds to those who need it on the ground will likely jeopardize the security of our troops, according to General Abizaid.

The economic assistance and the reconstruction support requested today are essential to the success and security of our troops and essential to our success in Iraq. We must build up Iraqi security, we must gain the confidence of the Iraqi people by improving the infrastructure, and we must begin the capacity to deal with all of the threats they face on the ground.

I share my colleagues' concerns and their sense of fiscal responsibility when dealing with taxpayer dollars. I strongly believe we should be good stewards of the taxpayers' money at all times. I wish this newfound concern pervaded all aspects of our fiscal responsibilities in Congress, not just this one. We cannot preach fiscal restraint on one hand and practice fiscal irresponsibility on the other. True, responsibility cannot depend on political convenience.

The numbers we are dealing with today are hard for many to grasp but boil down to the American taxpayer, according to a recent USA Today article, this way: Each year American households spend about 1 percent of their income on alcoholic beverages, another 1 percent on tobacco products, and we spent about .7 percent of our income on cosmetics. To put it into context, if this request were approved, our combined operations to combat terror in the Middle East and Afghanistan will have cost .8 percent of our income next year, a bit more than we annually spend on makeup and shampoo and a bit less than we annually spend on alcohol and tobacco. Significant? Yes. Budget busting? No. Worth it? Yes.

The American people are well aware that we are engaged in a Presidential election season and they recognize the difference between those with an honest difference of opinion and those who seek to exploit the President's handling of the war purely in order to gain political advantage. I find something particularly unsavory about the comments of those who seek political advantage in questioning our commitment to our troops and our dedication to winning the war on terror. Those who spend their time playing political games with our mission in Iraq, even as our young men and women labor to secure and stabilize that fledgling nation, do a dishonor not only to themselves but to our soldiers in the field and the memories of those who have sacrificed everything they had opposing Saddam's blood thirsty regime.

There are clearly obstacles to overcome in Iraq and there will certainly be setbacks along the way, as we have seen. I only hope the politics of the moment do not drive criticism that only serves to undermine our commitment to winning the war on terror and American resolve. We must not cut and run. We must not leave the Iraqi people with a promise unfulfilled. We owe it to our young men and women in uniform to give them our unequivocal support as they labor on in a dangerous place for an honorable cause.

Our troops, I am convinced, have the will to win. I only hope our politicians share that will to win.

As President Kennedy said 42 years ago:

> Let every nation know whether it wishes us well or ill, that we shall pay any price, bear any burden, meet any hardship, support any friend, oppose any foe, to assure the survival and the success of liberty.

I only wish those who are consciously or not intent on denying our troops what they need to finish the job and to get home as soon as possible will stop to reconsider. We have liberated Iraq of Saddam Hussein and now we must simply finish the job. We seek to make Iraq secure, to make it a place where the rule of law can be established so that civilian leaders, including the Iraqi Governing Council, can establish a new government for a new nation. This is not an easy task and it is not without cost. But it must be done, so Iraq can flourish as a free nation, and so that the victories won, the lives lost, will not be in vain.

Mr. President, I yield the floor and suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. CORNYN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

CONFIRMATION PROCESS

Mr. CORNYN. Mr. President, I understand Senator DOLE is coming to the floor, and I just want to, until she gets here, say a few words about what happened at the Environment and Public Works Committee yesterday when the confirmation of Governor Leavitt of Utah was being considered.

I have the honor of serving on four committees in the Senate, including the Judiciary Committee, which, as we all know, has proven to be a particularly contentious committee, with the unprecedented filibuster of some of President Bush's most highly qualified nominees.

But yesterday, for the first time, we saw some of the politics of the Judiciary Committee, the obstructionism there, pervading the Environment and Public Works Committee, for the first time, when it came to considering and voting on the nomination of Governor Leavitt of Utah to serve as the Administrator of the Environmental Protection Agency. Rather than have a debate, rather than have an honest debate, and then an up-or-down vote on this important nomination, what we saw was simply a boycott. Members of the committee on the other side of the aisle simply decided not to show up, making it impossible for us to achieve a quorum and impossible for us to vote on the confirmation of Governor Leavitt.

For the life of me, I cannot understand how those who claim to be pro-environment would simply obstruct the confirmation of a highly qualified nominee and leave the Environmental Protection Agency headless. Denying leadership to that large agency concerned with the protection of our environment and enforcement of our environmental laws and claiming to be pro-environment strikes me as inconsistent.

So I fear that as the primary season approaches for the Presidential race in 2004, what we are seeing again is the unfortunate intrusion of Presidential election politics into the work of the Senate.

Unfortunately, what that means is the people's work is not being done; the Environmental Protection Agency is denied the confirmation of a highly qualified nominee and is left leaderless. Certainly that cannot be pro-environment under any stretch of the imagination.

Some said there were 400 questions in writing that had been submitted to Governor Leavitt, which, in fact, he did his best to answer. But at least one Senator said: Well, I don't really care about the answers to the questions. I am going to vote to confirm him, but I want him to go through the exercise of answering those questions anyway so we can get him on record.

Well, the problem is that the nominee is somebody who has not yet served in that position. He is hobbled, to some extent, to be able to answer some of the questions that have been proposed. So he has to say: Well, if confirmed as Administrator of the Environmental Protection Agency, I will do everything within my power to investigate this issue, and to get to the bottom of it, and to respond to your concern, Senator.

But, otherwise, he is left without the opportunity for an up-or-down vote, and the EPA is left without a head—hardly a place where we need to be. We would not be in that condition if it were not for Presidential election politics pervading yet another committee's work when it is concerned with the protection of our environment.

I know in the Judiciary Committee this morning we have another nominee of the President who we are going to take back up, Judge Charles Pickering. It remains to be seen whether Judge Pickering's name will be added to the growing list of those who are being denied an up-or-down vote in this body because a minority of the Senate refuses to allow that up-or-down vote—an unprecedented act of obstruction and something which has not occurred before the obstruction of Miguel Estrada's nomination, that of Priscilla Owen, that of Bill Pryor. I hope that list is not further lengthened by adding the name of Charles Pickering.

Mr. President, with that, I yield the floor and suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. REID. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. REID. Mr. President, it is my understanding that the time of the majority has expired; is that right?

The ACTING PRESIDENT pro tempore. The time of the majority has expired.

CONFIRMATION OF JUDGES

Mr. REID. Mr. President, I was not planning on speaking this morning. However, my friend from Texas, the junior Senator from Texas, talked about something that I think deserves a response.

The Senator from Texas said—and I quote—there has been ''an unprecedented act of obstruction.'' He is referring to President Bush's nominees being withheld, not allowing votes on judges.

Mr. President, I do not know—and I do not mean this to be cute or smart or mean spirited, but I do not know what kind of math my friend from Texas is using if he is talking about unprecedented acts of obstruction.

Right now in the Federal judiciary there is a 5-percent vacancy rate. We have four judges on the calendar now, and they will be approved within the next, probably, 24 hours. So that will bring the number of judges approved during the Bush administration to nearly 170. I do not have the exact number. I have lost track of it but nearly 170.

Three judges have been turned down: Bill Pryor from Alabama, Miguel Estrada from the District of Columbia, and Priscilla Owen from Texas.

Unprecedented obstructionism? We are talking about 170 to 3. So my math indicates that is pretty good.

When Senator DASCHLE took control of the Senate as majority leader, a decision was made that there would be no payback. It would not be payback time. In fact, a decision was made that we would do everything we could to get the nominations approved that were sent to us by President Bush. We have done that. The record is clear.

However, my friend from Texas should go back and look at how President Clinton was treated. People waited for years and years and were not even allowed a hearing. As we know, it was necessary on a number of occasions to file cloture. Cloture was invoked, and the judges were approved.

It is easy to come on the Senate floor and throw out terms such as ''unprecedented acts of obstructionism,'' but it is not true. No matter how many times you say it, it still is not true.

PAT LEAHY, who has been the chairman and ranking member of the Judiciary Committee during the approximately 3 years of the Bush Presidency, has done an outstanding job of moving these judges. I don't know how we could do better. I guess we could be a rubber stamp for the President's nominees. That is not what the Founding Fathers envisioned. They believed these names should be submitted to the Senate. The Senate should evaluate them and make a decision at that time whether or not the nominees are what the country should have in the way of judges.

A decision was made in the case of Miguel Estrada. He didn't answer questions. He would not supply his memoranda from his time as Solicitor General. For those and other reasons, he was not approved. Priscilla Owen was criticized by the President's own lawyer, Mr. Gonzales, who is now the White House chief lawyer. He and Priscilla Owen served together on the Texas Supreme Court. She was criticized very heavily by Mr. Gonzales at that time. That is just a little bit of her problem. We know that she, by almost any standard, was quite radical—an activist, for lack of a better word. And we know Attorney General Pryor from Alabama was someone whose record was not such that he should become a lifetime appointment on the Federal bench.

That is 3, 3 to approximately 170. I do not know the exact number, but that is fairly close. By any math course you ever took, 170 to 3 is pretty good. In fact, it is real good. I wish we had had that kind of treatment when Bill Clinton was President.

I again remind everyone the vacancy rate in the Federal judiciary is now 5 percent. It is the best it has been in decades. Rather than having people come and push these little barbs at the Democrats on the Judiciary Committee, they should be giving them accolades for the cooperation they have maintained during President Bush's tenure.

Mr. President, it is my understanding the distinguished Senator from North Carolina wishes to speak as in morning business. Her time is gone.

Mrs. DOLE. Mr. President, I ask unanimous consent to proceed for up to 1 minute.

Mr. REID. And let us have a minute on our side.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered. The Senator from North Carolina is recognized for up to 1 minute.

THANKING BOB SCHIEFFER

Mrs. DOLE. Mr. President, I want to publicly thank our friend, Bob Schieffer, of CBS for revealing the story of his battle with bladder cancer. His going public will save the lives of countless others, especially men. In most every cancer case, early detection of and proper treatment can save your life. Bob Schieffer had a problem and immediately sought medical advice. The result was that in less than 8 months, he is cancer free. Thank you, Bob, for giving others direction and hope.

I yield the floor.

The ACTING PRESIDENT pro tempore. Who yields time? The Senator from Iowa is recognized.

Mr. HARKIN. Mr. President, the Senate is in morning business?

The ACTING PRESIDENT pro tempore. The Senate is in a period of morning business. The minority side has 25 minutes remaining.

Mr. HARKIN. I thank the Chair.

CALL FOR APPOINTMENT OF SPECIAL COUNSEL

Mr. HARKIN. Mr. President, many of my colleagues and I have been urging the Justice Department to appoint a special counsel to review and investigate the leak that revealed the identity of an undercover CIA agent. Some of my colleagues on the other side of the aisle have responded by saying that we are blowing things out of proportion, that our motives are political. I have to disagree. This is a serious issue, and it is not just those on my side of the aisle who have concerns about the obvious conflict of interest for the Justice Department to investigate this matter on its own.

I am referring to the Washington Post-ABC poll that was released. The poll found that nearly 7 in 10 Americans believe a special type of prosecutor should be named to investigate allegations that the Bush administration officials illegally leaked the name of an undercover CIA agent. The survey found that 81 percent of Americans considered the matter serious, while 72 percent thought it was likely that someone in the White House leaked the agent's name. It's clear the people of this country want a full, fair and independent investigation.

I would also like to take a minute to respond to comments from my colleague from Minnesota that were made earlier Wednesday. I believe he may have been misinformed. I wanted to make sure my colleague from Minnesota was clear on the difference between an independent counsel and a special counsel. Yesterday I had again stated the need for the Attorney General to appoint a special counsel to investigate this leak regarding an undercover CIA agent. We all know that a Federal law was broken—that is clear—a law that provides for stiff penalties, imprisonment, and fines. It is a Federal crime, under the Intelligence Identities and Protection Act of 1982 to intentionally disclose information identifying a covert agent to anyone not authorized to receive this classified information.

Columnist Robert Novak printed that information. We need to know who the senior administration official or officials were that gave him that information. But we also need to find out who gave that information to the administration officials.

Let me be clear about this. There is a cancer spreading in this administration. Most have focused only on who it was who gave the name of the undercover agent to Mr. Novak, the columnist. Clearly that is illegal. But there is another question behind that. How did that individual or individuals get access to this classified information about this undercover agent? Who gave that individual this information? Did it come from the National Security Council? Did it come from the State Department? Did it come from the CIA itself? Did someone in the White House request this dossier on Mr. Wilson and his wife? Or was it voluntarily given to them by someone in the CIA or the National Security Council or somewhere else? This is an even deeper question because it goes to what they wanted this information for. Why would individuals high in the administration want the information about who was

an undercover agent and who was not, unless they had the intention of using that information to intimidate Mr. Wilson, to put a chilling effect on those who might want to disagree with this administration's position on Iraq.

That, I believe, is another concern we have—the chilling effect. The greatest weapon we have in our fight against international terrorism is not a ballistic missile, it is not this missile defense shield that people want to build over this country, it is not our laser-guided bombs; the best weapon we have against international terrorism is the intelligence and information we get from agents in the field around the globe, working with our friends and allies and others, so that we can get to the terrorists in their incubation, before they are able to carry out their dastardly deeds, break up their cells, break up their lines of communication. It is the intelligence and information that we need to win this battle against terrorism.

If, however, one of our agents in the field and all that agent's contacts now think that at some time this administration, or an administration in the future, can ''out'' them, release their name, then that puts kind of a damper on whether or not they are going to get information. That could put people's lives in jeopardy, put them at risk in the future.

For example, the woman who was outed, Valerie Plame, had in fact traveled overseas as an undercover agent. I assume now people will be looking at whom she contacted, whom she talked to, who were her sources of information. This is not, as I said the other day, some little real estate deal out in Arkansas. This is not just some President philandering with some White House aide. This has to do with the security of our country.

According to the Washington Post, a senior administration official told the Post that before Novak's column appeared, two top White House officials called at least six journalists and disclosed the identity of the CIA agent. Now the Justice Department is investigating.

So let's get this straight. The Attorney General, appointed by the President, is investigating the President's office. As I said yesterday, and I say again this morning, if an investigation ever cried out for a special counsel, this is it. Again, I point to an article that appeared on the front page of the New York Times today, which said: Attorney General is closely linked to inquiry figures. Rove was a consultant. Deep political ties between top White House aides and Attorney General John Ashcroft have put him into a delicate position as the Justice Department begins a full investigation into whether administration officials illegally disclosed the name of an undercover CIA agent. Karl Rove, Mr. Bush's top political advisor, whose possible role in the case has raised questions, was a paid consultant to three of Mr. Ashcroft's campaigns in Missouri—twice for Governor and for United States Senator in the 1980s and 1990s. Jack Oliver, the deputy finance chairman of Mr. Bush's 2004 reelection campaign, was the director of Mr. Ashcroft's 1994 Senate campaign and later worked as Mr. Ashcroft's deputy chief of staff.

Does anyone really believe that this Attorney General can, with a straight face, say they are going to investigate these people when they work for them and they have close ties? As I said, a special counsel is needed desperately.

In response yesterday morning, when I called for this, my colleague from Minnesota accused some of my colleagues and me of ''rank political hypocrisy'' when it comes to calling for a special counsel. He said this, and I quote from the RECORD today:

> I'm a slight student of history. I believe in 1999 there was an effort in this body, led by Senator Collins from Maine, a bipartisan effort to put in place a provision to allow for a special prosecutor. And it was blocked. It was stopped by the very same folks today that are talking about needs for a special prosecutor. I think, and I am going to be very blunt here, what we are hearing is a little rank political hypocrisy when it comes to calls for a special prosecutor.

That is in the CONGRESSIONAL RECORD today from Senator COLEMAN of Minnesota. I think Senator COLEMAN needs to brush up on his history. In 1999, the independent counsel law expired. Republicans were in charge of the Senate and they chose not to reauthorize it. This law allows the Attorney General to recommend an independent counsel, to lead an investigation, and a three-judge panel chooses that counsel. That independent counsel was accountable to no one. It had its own staff, budget, and missions. The investigations could go on indefinitely.

My main problem with the Office of Independent Counsel was that the investigations could go on forever, with a bottomless budget that taxpayers had to pay. The Collins alternative was a step in the right direction, which limited the time on these investigations. But the Republican leadership never scheduled a vote—never scheduled a vote.

By the way, former independent counsel Kenneth Starr opposed renewing that law. Regardless, appointing an independent counsel or prosecutor is not what I have been talking about. I don't believe I've ever mentioned appointing an independent counsel. I have said the Attorney General should appoint a special counsel. There is a big difference. The Attorney General alone can appoint an outside special counsel if he believes there is an inherent conflict of interest or if he deems it is in the public interest for a special counsel to be appointed. The special counsel reports to the Attorney General, who pays the counsel's salary and the salary of his or her staff.

The key to the special counsel is this. At the end of the investigation, the Attorney General must report to Congress all instances where he blocked the special counsel from taking an action, such as subpoenaing documents or putting a witness before a grand jury. That is the kind of balance we need in this kind of situation, when the administration is obligated to investigate itself.

So I think the Senator from Minnesota not only needs to brush up on his history but also definitions. It was an entirely different issue in 1999. The law had expired. The Republican majority did not move to reauthorize it and to even call for a vote to reauthorize the independent counsel law. Quite frankly, I am one of those who don't believe in these independent counsels because they go on forever and they are accountable to no one. They can investigate whatever they want. That is not what I am calling for.

What I am calling for is the Attorney General to use the authority he has under the law to appoint a special counsel, someone of prominence, someone of integrity, someone who would assure the American people the investigation will be done fairly, objectively, and thoroughly, and let the chips fall where they may. It would not go on forever. The Attorney General decides the salary and the pay and how much staff. But the key is this: The special counsel would have, under the auspices of the Attorney General, the ability to subpoena witnesses, to subpoena documents and records, to take a person before a grand jury. The Attorney General could say no and stop it, but at least we would know that. The people of America would know whether or not the Attorney General stopped the special counsel from getting certain documents or referring a witness to a grand jury. Therein lies the check and balance that is so important to making sure we have an open and transparent system of Government.

Mr. REID. Will the Senator yield for a question?

Mr. HARKIN. It is time we have a special counsel.

I am honored to yield to my friend from Nevada.

Mr. REID. I ask my friend this question: If someone within the CIA had divulged the name of this operative, that person, it seems to me, would be subject to criminal penalties and would be considered a traitor; is that true?

Mr. HARKIN. I know the person would be subject to criminal penalties. I am not certain I know the definition of a ''traitor,'' but I think it would be closely akin to that. I don't want to make a statement. I don't know the absolute definition of ''traitor,'' I say to my friend. Obviously, it would be subject to penalties. We have Aldrich Ames right now spending his life in prison without parole because he divulged the name of operatives, undercover agents, whose associates and others were killed in the former Soviet Union, and Aldrich Ames today is where he ought to be: in prison for life without parole.

The same applies here, it would seem to me, I say to my friend from Nevada, that this is a case where not only someone in the CIA but anyone in a position who has access to this classified information would be subject to this. Again, I say to my friend from Nevada, since he is on the floor, I really think many of the people who are inquiring about this are stopping short because they are only focusing on who gave the information to Mr. Novak. There is a deeper and I think even more profound question to be asked: How did those individuals in the administration get that classified information? How did they come by that information to know this Valerie Plame was an undercover agent? That raises very serious questions.

Mr. REID. If I can answer and ask a question. First of all, Webster's compact dictionary I have in my desk says a traitor is one who betrays trust. So certainly if a CIA agent leaked to the press the name of one of his colleagues who is an undercover agent, he would be a traitor.

Mr. HARKIN. I accept that definition. I say to my friend, my feelings and my senses are that someone with this kind of information who leaked it I think has violated the law and betrayed the government and the citizens of the United States.

Mr. REID. The next question I ask my friend: So if a CIA operative would be subject to criminal penalties and would be considered a traitor for doing this activity, certainly someone working within the administration, within the White House, would be considered the same; is that not true?

Mr. HARKIN. I think the Senator from Nevada has it exactly right. That is true, they would be considered the same. I thank the Senator for asking the question because it does clarify a point.

If I can take off from what the Senator from Nevada just asked me—and it is a good point, it should be made—what would happen in the administration if someone in the CIA had leaked this kind of information about an undercover agent. What would happen? I will tell you what would happen. They would have that person locked up in jail before nightfall, and they would be prosecuted to the full extent of the law. My friend from Nevada raises a good question: What is the difference between that and someone in the White House or administration doing the same thing?

Again, it is time for a special counsel. As the New York Times said this morning on the front page, both Mr. Rove and Mr. Oliver have close connections with Mr. Ashcroft. I don't know whether they are involved in this or not, but they are both very high in the administration. There are too many close ties between Attorney General Ashcroft and people high in this administration for the people of this country to be assured that we are going to have a fair, independent, full, and thorough investigation. Let the chips fall where they may and prosecute—yes, prosecute—the people responsible for leaking this information.

Mr. President, I intend to take the floor of the Senate every day to talk about this issue. We cannot allow this to be swept under the rug. We cannot allow a coverup to go on day after day. This is a President elected by the people, a servant of the people. And I don't think it is enough for any President to say: We will let the Attorney General investigate. The buck stops on the President's desk. I can only say if an allegation had been made about someone on my staff doing something like that, I would call them in, and I would have them sign a notarized legal document right there: I, so and so, had nothing to do with any leak and know no information about it whatsoever. Sign it.

That is what the President can do, and we can have this information out about who called Mr. Novak, who called these other reporters. We would know it before the sun went down today. That is why this coverup cannot continue to go on. The American people deserve better than this, and they are going to get it. We are going to find out who put our country at risk, who committed these treasonous activities.

I yield the floor.

Mr. REID. I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. MCCONNELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

CONCLUSION OF MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Morning business is closed.

EMERGENCY SUPPLEMENTAL APPROPRIATIONS FOR IRAQ AND AFGHANISTAN SECURITY AND RECONSTRUCTION, 2004

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will resume consideration of S. 1689, which the clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 1689) making emergency supplemental appropriations for Iraq and Afghanistan security and reconstruction for the fiscal year ending September 30, 2004, and for other purposes.

Pending:

McConnell modified amendment No. 1795, to commend the Armed Forces of the United States in the War on Terrorism.

Biden amendment No. 1796, to provide funds for the security and stabilization of Iraq by suspending a portion of the reductions in the highest income tax rate for individual taxpayers.

The ACTING PRESIDENT pro tempore. Under the previous order, there will be 40 minutes divided in the usual form on the McConnell amendment No. 1795.

The Senator from Kentucky.

AMENDMENT NO. 1795

Mr. MCCONNELL. Mr. President, before proceeding to my remarks about the pending amendment, I point out to Members of the Senate that we are all familiar with the National Endowment for Democracy and the fact that it provides funds to the International Republican Institute and the National Democratic Institute, which operate overseas to help promote democracy, human rights, and all of the things that Americans believe are important.

The National Democratic Institute recently issued a report on Iraq that I think is noteworthy, and I am going to point out some excerpts from that.

I ask unanimous consent that excerpts from this report be printed in the RECORD.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

(See exhibit 1.)

Mr. MCCONNELL. Former Secretary of State Madeleine Albright currently chairs the National Democratic Institute and she points out:

The past half-century provides ample proof that democracy is more than just another form of government; it is also a powerful generator of international security, prosperity and peace.

According to the NDI, inside Iraq there is an explosion of democratic politics.

. . . NDI will find fertile ground for democracy promotion initiatives on a scale not seen since the heady days of the fall of the Berlin wall.

That bears repeating, that the National Democratic Institute finds within Iraq today an explosion of democracy, and fertile ground for democracy promotion initiatives on a scale not seen since the fall of the Berlin wall.

Another finding of the NDI that I think is noteworthy is that the Iraqis are grateful for their liberation. There has been some notion promoted, I think by many in the press, that somehow the Iraqis are sorry that Saddam is gone. The NDI, headed by Madeleine Albright, finds that the Iraqis are grateful for their liberation.

In addition, the NDI finds significant evidence of support for the United States. For example, they say:

In Kirkuk, there was a large painted sign reading ''Thank you USA'' in English and in Kurdish.

Additionally, the NDI found overwhelming support for liberation, but lack of stability or economic opportunity obviously does erode, to some extent, support for the U.S.

They found that security and jobs are a precondition to democracy. We know that, and that is what this supplemental is all about. They found Iraqi frustrations are due to fear and uncertainty, not hostility toward the United

States. This is the National Democratic Institute, headed by Madeleine Albright, which said that Iraqi frustrations are due to fear and uncertainty, not to hostility toward the United States.

The NDI also found that the Iraqis need our help now, and that is what this supplemental is all about. They also found that chaos and slow progress would feed the forces of radicalism, which seems an obvious statement to this Senator, and I believe their findings highlight the fact that time to act on the supplemental is now. That is why this bill is before the Senate and why we are moving forward with this important supplemental to finish the job in Iraq and give the Iraqis a chance to realize their aspirations.

As we all have recognized, the world changed dramatically on September 11, 2001. It changed in that the unprovoked attack on America required that America defend itself from the shadowy network of international terrorism.

To protect American lives and buildings, the President announced his intention to go after international terrorists wherever they were and after the regimes that supported those efforts, whoever they were. He warned that the costs would be high, that patience would be required, but that America would win the struggle.

Today we are here to pay the price of freedom by moving this supplemental forward. Many have already paid the ultimate price for freedom, whether it was soldiers in Iraq or Afghanistan, civilians in the World Trade Towers, passengers in airlines wrestling control from terrorist hijackers, or the passengers themselves giving their own lives. Yes, many have paid the ultimate price of freedom. The question is, Will Congress pay?

Some say the price of freedom is too high and we have already paid too much. So while we have won the war in Iraq, the struggle today is whether America will pay the price to win the peace, just as we did after World War II. This is a question, of course, we have struggled with before.

In the past, we have sometimes won wars but actually lost the peace. But not always. At the end of the Civil War, President Lincoln foreswore revenge, retribution, and reparation payments against the South. His spirit marched on as America paid for the reconstruction of the South, ravaged by the effects of 5 years of a new, more devastating type of warfare. Clearly, if we look at America today, we won that peace.

At the end of World War II, America again won the peace. We did not want the emergence of another Weimar Republic of Germany, which, racked by debt and desolation, would spawn yet another new greater threat. Of course, that was the result after World War I, costing us a second payment of even more lives and paying the price for freedom in World War II. Instead of a failed peace, such as we had after World War I, in 1948 the Marshall plan of aid and trade inaugurated a restoration of Europe, a halt to Communism and an unprecedented expansion of freedom and peace.

This is a picture of President Truman signing the Marshall plan in 1948. Interestingly enough, that was in the middle of a tough Presidential election. It would have been easy for the Republican-controlled Congress to have politicized that effort, to have criticized President Truman for advocating that kind of spending on the reconstruction of Europe, but instead they came together on a bipartisan basis.

Arthur Vandenberg, Joseph Barton, and the other Republicans who were in the majority in the Congress that year joined hands with President Truman and said: Let's make this bipartisan, let's finish the job in Europe, let's do it right and give the Europeans a chance to develop democracy and freedom, something that was lost after World War I.

Today we face the very same challenges. Historians may very well record that now is when the American Millennium began anew, and an unprecedented expansion phase, not of America herself, but of the idea that America represents and shares with all freedom-loving countries.

Through one of history's great ironies, the very ideas that were attacked on September 11, 2001, American ideas like democracy, individual freedom, limited government, and free markets—these ideas when attacked did not retreat but were revitalized, not just here but in countries where history records little evidence of even the most basic human rights.

But now, here, today, the scribes of history can say this is when civilization, freedom, and peace began a new march forward, rather than a stagnant period of isolationism of war, oppression, and decline.

I agree this will be the defining debate of this Congress. As history hangs in the balance, as the world wonders whether America will promote the freedom and democracy we brought to Western Europe and Japan after World War II, and to Eastern Europe and Russia after the cold war victory, America should look on this debate with hope and fear. America should hope we in Congress will come together to give peace and freedom a birth in a region not known for it, but we fear that politics may prevent that.

The challenge we face today to which I alluded earlier is to come together behind the President's request, like the Congress did on a bipartisan basis for President Truman and the Marshall plan: to give Iraq a true opportunity to become a bastion of democracy and freedom in the Middle East.

This bill signing I referred to earlier was the first of a total of $10.9 billion appropriated for the Marshall plan during 1949 to 1951, to rebuild Europe and Japan. When you adjust that for inflation, that is equivalent to about $83 billion in today's dollars, over 4 times what the President is calling for in the rebuilding of Iraq. The Marshall plan was four times larger than what the President is asking us to do today in rebuilding Iraq. Polling data back in that era, 1948, showed only 68 percent of Americans had heard of the Marshall plan, and only half of those who had heard of it approved of it. Back in 1948, clearly, spending money to rebuild Europe was not popular, but Republicans and Democrats put aside their differences, rallied behind President Truman and, as I indicated earlier, people like Arthur Vandenberg of Michigan, Charles Eaton of New Jersey, and Joseph Martin of Massachusetts, along with others in a Republican-controlled Congress, joined hands with President Truman to get the job done.

We need leaders like the Vandenbergs and Martins, leaders like those who crossed the aisle to enact President Truman's Marshall plan to rebuild Europe and Japan. We need those leaders today. The election is 13 months away. Let's not start it this soon. Let's do the right thing here in the Senate to give Iraq a real opportunity to achieve its dreams. Let's do what is right for America. The politics will take care of itself in the next year.

What I had hoped for was a high level of bipartisanship. Unfortunately, we have gotten a high level of politics out of all of this. This is the first great military challenge to America in the new millennium. We hear calls out on the Presidential campaign trail for the President's impeachment. One Member of the Senate said that. Or regime change, said another Member of the Senate running for the Presidency. We heard the war for Iraq was a fraud and that the removal of an unbelievably brutal dictator was described by one candidate as ''supposedly'' a good thing. We hear there is no chance for military success, like that of World War I, World War II, Korea, the cold war, or Desert Storm, that gave freedom to Western Europe, Japan, North Africa, South Korea, Russia, Eastern Europe, or Kuwait. We are told our military efforts can only end in a Vietnam-style quagmire and failure. We hear that paying the price to win the peace and bring our soldiers home is too much.

And last, and most destructively, we hear every benefit of the doubt given to a brutal dictator, while every conceivable doubt is hurled upon this administration, our intelligence networks, and our allies.

It should not be that way and it doesn't have to be that way. We can come together. The President's plan says yes, let's make aid and trade work together, not just to rebuild Iraq and end the terrorism, but to build a working democratic state based on individual freedom and free markets. That is how to win the peace. But, frankly, in its details, democracy and peace is pretty routine stuff. It doesn't get a lot

of press. Winning the war, that gets a lot of press. So do efforts that threaten the peace. But winning the peace itself involves terribly mundane stuff.

For example, taking out a terrorist training camp is news. But building police training academies is not. The former wins the war, the latter wins the peace.

Using bulldozers to cover the populations of whole Iraqi towns in mass graves is part of the horrific terror that gets press coverage. But using garbage trucks to keep towns clean and safe from pestilence and disease is the boredom of peacetime. When humans are treated as refuse, that is a sign of war. When human refuse is treated, that is a mark of peacetime.

Garbage trucks and police academies are the mundane, boring signposts that peace and democracy are progressing. We see all sorts of routine signs of progress that get no press. Fifty-eight of the largest cities of Iraq have hired police forces. Some 70,000 Iraqis are patrolling the streets of their country. No one reports this—no one. Medical supplies are flowing to hospitals, with regular paychecks going to doctors and nurses. No one is reporting that. Vaccinations are available across the country and antimalaria sprays are proceeding. No one is reporting that. Again, more mundane stuff that makes for peace and progress. Airports are reopening and so are ports. Provisional representative councils are formed in major cities, especially in Baghdad, and 150 newspapers are publishing, with foreign publications, radio and television broadcasts also available. That is a radical change over there, but show me the press clippings covering the progress. I haven't seen any—none.

We see other signs of progress we would call a normal life—120,000 Baghdad students returning to classrooms last May; 1.2 million school kits are being prepared for the coming school year which started this week; 5 million math and science books will be distributed. Banks are opening, crops are being harvested, the Baghdad symphony is performing, bookstores are reopening, and artists are displaying their works. None of this is reported because it is not newsworthy here in the United States. But it is news there, and proof of peace and democracy sprouting up all over Iraq.

Peace and democracy are sprouting in Iraq, but you would be hard pressed to find news reports here because mainly failure and setbacks count as news. And, of course, certain papers and broadcasters focus on the Presidential candidates, calling the President's efforts a failure. We should not be too surprised. Presidential politics is the most powerful political force in America. But I urge people to ask themselves, why didn't Presidential politics destroy the Marshall plan back in 1948, closer to a Presidential election year than we are now? Presidential politics did not destroy the Marshall plan because Members of the Senate on a bipartisan basis rose above that and did what was right for America and right for Europe.

I believe it was due to the fact that Republicans and Democrats alike wanted to ensure history did not repeat itself. They knew of their friends and comrades who died in World War II because they failed to win the peace after World War I. The threat of poverty and despair in Europe was real, and so was the effort by communists to take advantage of that. But mostly, they didn't want the sacrifice of their sons, brothers, fathers and husbands in World War II to be in vain. to them and us, lives and freedom should be more important than power and politics.

So I ask, can we set aside politics and ask what happens if we fail in Iraq? Perhaps we are not motivated by the good that can come from a democratic Iraq. But surely we should consider the disaster that can befall the world if in this war against terrorism, we fail to bring peace and democracy to Iraq and Afghanistan. Our children and their children will have lost their chance for peace, freedom and prosperity.

This is a defining moment, but if we look after the interest of the next generation rather than the next election—like President Truman and the Republican Congress did back in 1948 with the Marhsall plan—we can do something great for Iraq, for the world and for our children.

So, I ask us to think of the future generations like those who formed the Marshall plan considered in their deliberations. I ask us to come together to do what is right for future generations. I ask for unity, and to promote that end, I will offer an amendment that should unify this body. Let us set aside the rancor and agree that the Armed Forces of the United States have performed brilliantly in Operation Enduring Freedom in Afghanistan and in Operation Iraq Freedom in Iraq.

Since October 7, 2001, when the Armed Forces of the United States and its coalition allies launched military operations in Afghanistan, designed as Operation Enduring Freedom, our soldiers and allies have removed the Taliban regime, eliminated Afghanistan's terrorist infrastructure, and captured significant and numerous members of Al Qaeda.

Since March 19, 2003, when the Armed Forces of the United States and its coalition allies launched military operations, designated as Operation Iraqi Freedom, our soldiers have removed Saddam Hussein's regime, eliminated Iraq's terrorist infrastructure, ended Iraq's illicit and illegal programs to acquire weapons of mass destruction, and captured significant international terrorists.

During all this time, during the heat of battle, our soldiers have acted with all the efficiency that war time commands, but all the compassion and understanding that an emerging peace requires. They have acted in the finest tradition of U.S. soldiers and are to be commended by this body.

That is what this situation requires of us today. I hope as we move forward with this debate on the supplemental, Members will remember the importance of pulling together to finish the job in Iraq.

I yield.

EXHIBIT 1

EXCERPTS FROM A RECENT NATIONAL DEMOCRATIC INSTITUTE REPORT ON IRAQ

''The past half-century provides ample proof that democracy is more than just another form of government; it is also a powerful generator of international security, prosperity and peace.''—Madeleine K. Albright, NDI Chairman

An Explosion of democratic politics: ''After three days in Baghdad it is already clear that NDI will find fertile ground for democracy promotion initiatives on a scale not seen since the heady days of the fall of the Berlin wall. There has been a virtual explosion of politics in Iraq's capital city with as many as 200 parties and movements having made themselves known to the Coalition Provisional Authority.''

The Iraqis are grateful for their liberation. ''NDI's overwhelming finding—in the north, south, Baghdad, and among secular, religious, Sunni, Shiite, and Kurdish groups in both urban and rural areas—is a grateful welcoming of the demise of Saddam's regime and a sense that this is a pivotal moment in Iraq's history. A leading member of a newly formed umbrella movement, the Iraq Coalition for Democracy, put it this way, ''We already see the positive results the Americans have brought—we are free to talk to you, to organize a movement and party, free to meet and demonstrate and all of this was made possible by the Americans.''

Significant evidence of support for the United States: ''In Kirkuk, there was a large painted sign reading, ''Thank you USA!'' in English and in Kurdish. In Erbil and Suleimaniya, there were many ''Thank you to the USA'', ''Thank you to President George Bush'' banners as well as ''peace and prosperity come with democracy.''

Overwhelming support for liberation, but lack of stability or economic opportunity erode support for the U.S.: ''Across the board, the people of NDI met with in southern Iraq supported the forceful ouster of Saddam—a person many described as ''Nero'' and a ''criminal towards his people''. Although southerners were clearly conscious of the discrimination they had suffered under Saddam's Baathist rule, many were quick to add that poor security conditions and a lack of basic necessities are having a negative impact on attitudes toward the U.S.''

''The main findings of the research reveal that, in every community, the Iraqis are grateful for the ouster of Saddam Hussein but have a strong desire for order and governance. They feel a mix of excitement and fear about the prospect of freedom and democracy, and have differing views about the role of Islam in the country's new political order.''

Security and jobs are a precondition to Democracy. ''One former general, previously part of the Free Officers Movement, summed up the state of Iraqi ''anxious ambivalence'' this way, ''People need a rest. They need security and jobs and, maybe after a year they can be educated about political parties and democracy and then they can choose heir future properly.''

Iraqi frustrations are due to fear and uncertainty, not hostility to the United States. ''Faced with rising crime, uncertain economic prospects, and chaotic daily conditions, complaining—to anyone who will listen—has become a national pastime. Part of

the problem is a perceived lack of access to those in authority, but mostly the complaints are a symptom of uncertainty, not an expression of hostility to the United States or its aims in for Iraq.''

The Iraqis need our help now. ''Time is not on the side of the coalition or Iraqi democrats. Current conditions play into the hands of extremists—religious and nationalist—who point to lack of progress as proof of the need for a strong hand.''

Chaos and slow progress feed the forces of radicalism. ''In fact, many Iraqi political forces are benefiting from the societal chaos. Islamic forces, including the Shia dominated Da'awa party and Supreme Council for the Islamic Revolution in Iraq, with their inherent legitimacy, established networks, and communications facilities through the Mosque, are flourishing and establishing positions of dominance in Shiite slums, small cities and the underdeveloped countryside.''

Time to act on the supplemental is now. ''In conclusion, this is not a time for despair or second-guessing but for action. There is an urgent need for democratic education, party strengthening, for coalition building and for material assistance to democratic movements and organizations. The political vacuum is being filled by those with an interest in destroying and separating rather than uniting and building—only concerted efforts to strengthen the democratic middle can help stem that tide.''

Mr. REID. Mr. President, has the distinguished majority whip yielded his time?

The ACTING PRESIDENT pro tempore. The Senator from Kentucky controls an additional 1 minute. The minority side has 20 minutes remaining.

Mrs. BOXER. Mr. President, I am going to support the amendment introduced by Senator MCCONNELL for one reason and one reason only: I support our troops, and I share the sentiment all Americans have in holding our men and women in uniform in the highest regard.

It is a fact that there are differences in this country about United States policy toward Iraq. But there is no disagreement that our military personnel have been brave and courageous. They have made sacrifices for our country and more than 300 have made the ultimate sacrifice. I grieve for their loss and my heart goes out to their families and loved ones.

Families throughout America are proud of their sons, daughters, fathers and mothers who are fighting in Iraq and Afghanistan. They are anxious about reports of daily attacks on United States soldiers in central Iraq and are hopeful that already lengthy deployments are not further extended. I share both their pride and their anxiety. I, too, think about our troops every day. I think about their families. I thing about their sacrifices.

The McConnell amendment makes note of these sacrifices. It also commends organizations such as the USO and Operation Dear Abby that help support our troops. The amendment also states that there should be appropriate ceremonies to honor and welcome them home. I hope these ceremonies occur sooner rather than later.

California has a rich military tradition. Military personnel from across the State and from all branches have been serving bravely in Iraq and Afghanistan. I am especially proud of these military men and women and wish them a safe return home.

Mr. LEAHY. Mr. President, on March 20 of this year, the Senate passed S. Res. 95, a resolution commending the President and the men and women of the United States Armed Forces, and the civilian personnel supporting them, for their efforts in the war in Iraq. I cosponsored that resolution. While there was some language in that resolution I would have changed or deleted, I felt it was appropriate and drafted in a relatively non-political, balanced way such that even those of us who had opposed the resolution authorizing the use of unilateral, pre-emptive force could support.

Today, the Republican leadership has put forward another resolution, which again commends the President and the men and women of the Armed Forces, as well as the civilian personnel who have supported them. I will also vote for this resolution. Of course we commend the troops, their families, and the Defense Department's civilian personnel, for their courage and sacrifice for their country. I have commended the extraordinary efforts of our troops in virtually every statement I have made about Iraq.

But this resolution goes further than S. Res. 95, in ways that I disagree with. It commends the contribution of defense contractors, for example. I have nothing against defense contractors. Many deserve recognition for their indispensable, innovative contributions to the success of our Armed Forces, including defense contractors in my own State of Vermont. It is, for example, these companies that developed the precision-guided weapons that helped to reduce the number of civilian casualties in Iraq. But other contractors have engaged in practices that have bilked American taxpayers out of many millions of dollars, overcharging for their services or manipulating the bidding process. I do not commend those contractors.

I also disagree with some of the wording of this resolution, because it may leave the wrong impression. For example, at one point it states ''Whereas the United States pursued sustained diplomatic, political, and economic efforts to remove those threats peacefully.'' It is true that the administration went to the United Nations, belatedly, under pressure from Congress and the rest of the world, to seek support for the use of force against Saddam Hussein. But it went to the United Nations with an attitude of ''you're either with us or against us,'' and when they did not get everything they wanted as quickly as they wanted it, they prematurely abandoned the diplomatic process and launched a unilateral military attack for the purported purpose of upholding U.N. resolutions without the support of the U.N. Security Council. The administration's diplomatic and political efforts were grudging, half hearted, and ineffective.

In addition, I am concerned, and disappointed, that this resolution makes no mention whatsoever of our diplomats and aid workers who are working tirelessly in Iraq under extremely dangerous and difficult conditions. Their bravery and sacrifice should also be recognized.

Mr. President, we want Iraq to become a democratic, prosperous nation. But let's be honest. We know why the Republican leadership hastily drafted this resolution last night. It is increasingly obvious to the American people that the war in Iraq, where United States soldiers are being killed and wounded every day 4 months after the President declared the ''mission accomplished,'' is going to drag on for years and cost hundreds of billions of dollars. The $87 billion supplemental appropriations bill we are considering is fraught with problems, and even Republicans are realizing that it is unpopular with a majority of their constituents. Compounding that, the White House is facing an internal probe of the leak of the identity of a covert CIA employee. So what do they do, they trot out another ''feel good'' resolution praising the President, in an effort to divert attention from the real issues. We have seen this too many times before.

Again, I will vote for this resolution because I am concerned about our troops and want them to know that each and every one of us supports them as they risk their lives to bring peace and security to Iraq. But I would hope that in the future we do better than these simplistic, politically motivated resolutions.

Mr. KENNEDY. Mr. President, I share the reservations of many of my colleagues about the McConnell amendment. Each and every Senator supports our troops in Iraq, but many of us do not support the decision by the Bush administration to go to war.

This amendment states the pride and admiration we all feel for our troops, their families, and all of those who aided in the effort. But it also contains several provisions many of us disagree with.

The President has stated, there is no evidence that Saddam Hussein was involved in the attacks on the World Trade Center, yet this amendment leaves the impression that he was. This amendment also states that our military action brought an end to Iraq's illegal programs to acquire weapons of mass destruction, but no evidence whatever has been found that Saddam had even begun to reactivate these programs of the past.

In addition, the amendment commends the President and Secretary Rumsfeld for planning and carrying out Operation Iraqi Freedom. No one doubted we would win the war. but we had no plan to win the peace, and Secretary Rumsfeld and Deputy Secretary Wolfowitz misled the President and the country about the need to go to war.

As the evidence now makes clear, Iraq was not an imminent threat to our national security. Iraq did not have longstanding ties to terrorist groups. Iraq was not developing nuclear weapons. No weapons of mass destruction have been found in Iraq.

It is wrong to put American lives on the line for a dubious cause. Many of us continue to believe that this was the wrong war at the wrong time. There were alternatives short of a premature rush to a unilateral war that could have accomplished our goals in Iraq with fare fewer casualties and far less damage to our goals in the war against terrorism.

This resolution commemorates Operation Iraqi Freedom as if the war were over and our men and women are coming home. We know this is not the case, despite the President's declaration of ''mission accomplished'' aboard the aircraft carrier 5 long months ago.

Our service men and women still face constant danger in Iraq. American lives are lost almost daily in Iraq. They were told they would be welcomed as liberators. Instead, they are increasingly resented as occupiers and are under siege every day. They face surprise attacks and deadly ambushes from unknown enemies. It is increasingly difficult to tell friend from foe. The average number of attacks against American soldiers recently increased from 13 to 22 each day.

Three hundred and sixteen Americans have been killed in Iraq since the war began. In the 5 months since President Bush declared ''mission accomplished,'' 178 American soldiers have died. Ten soldiers from Massachusetts have made the ultimate sacrifice in Iraq. Each day another eight soldiers or Marines are wounded in Iraq.

These are not just statistics. Each fallen soldier has someone who mourns their loss. That loss—whether it's a husband or wife, a son or daughter, a brother or sister, or a father or mother—weighs heavily on us as well, and we must do our best to see that their sacrifice is not in vain.

The administration still has no credible plan to end this war. Our troops deserve a plan that will bring in adequate foreign forces to share the burden, restore stability and build democracy in Iraq, and bring us closer to the day when our troops will come home with honor.

Our soldiers' lives are at stake. Patriotism is not the issue. Support for our troops is not the issue. The safety of the 140,000 American servicemen and women serving in Iraq today is the issue, and, it is our solemn responsibility to question—and question vigorously—the administration's current request for funds. So far, the administration has failed—and failed utterly—to provide a plausible plan for the future of Iraq and to ensure the safety of our troops.

Mr. BYRD. Mr. President, West Virginians know sacrifice. Families from the Mountain State have lost loved ones in both Iraq and Afghanistan. Members of the West Virginia National Guard and the members of the Reserves have been deployed around the world, their lives on the line each day in the most dangerous of circumstances. Our troops deserve to be commended, as do all Americans who have supported them: their husbands and wives; their sons and daughters; and all the members of their communities.

I have grave concerns for the situations that our troops now find themselves in. In Iraq, constant attacks have caused the toll in American lives to more than double after May 1. In Afghanistan, which is in danger of becoming the forgotten war, Taliban and al-Qaida terrorists are hiding in the mountains, regaining their strength, and plotting against us.

I will vote for the resolution that is before the Senate, but only because we must not offend those who have sacrificed in the wars in which the United States is now engaged. It should be a moral obligation to support those who have lost loved ones in battle, and those who wear our Nation's uniform.

But I do not agree with many of the where-as clauses to the resolution that are before the Senate. It is wrong to commingle the images of Osama bin Laden and Saddam Hussein. I do not agree that our attack on Iraq is part of the ''Global War on Terrorism.'' It is misleading to imply that the United States had run out of diplomatic options before attacking Iraq. It is dangerous to think that we have eliminated Afghanistan's terrorist infrastructure. The first three pages of this resolution lay out a distorted history of how we came to be involved in the wars in Afghanistan and Iraq. We need to stop the spin and distortions. They do a disservice to the public.

Mr. FEINGOLD. Mr. President, I voted in favor of the McConnell amendment today, because I wholeheartedly agree with the sentiments in its resolve clauses expressing the Senate's tremendous admiration and appreciation for our men and women in uniform who have served in Operation Enduring Freedom and Operation Iraqi Freedom. Their contributions and their service deserve our unified and enduring support.

However, the findings contained in the amendment seem to link Saddam Hussein's regime to the terrorist attacks on the United States that occurred on September 11, 2001. No evidence supports such a link, and those who continue to confuse these issues do the American people a great disservice, as they encourage an unfocused and unwise approach to our first national security priority, the fight against terrorism.

Ms. MIKULSKI. Mr. President, I am proud to have voted for Senator MCCONNELL's resolution commending America's Armed Forces. It is right for us to thank our troops for their service. It is right to thank military families for their sacrifice. It is right to thank great organizations like the USO for their support to our men and women in uniform.

However, I am puzzled by some of the findings in the McConnell amendment.

We were all told last year that Iraq had weapons of mass destruction and was ready to use them. Well, the jury is still out on that. But press reports suggest that Dr. Kay's team has not yet found any actual weapons. So I am not sure it is accurate to say the war ended Iraq's WMD programs.

The Bush administration now acknowledges that there is no evidence of ties between Saddam Hussein's regime and al-Qaida and the September 11 attacks. Yet the amendment seems to combine Operation Enduring Freedom in Afghanistan and Operation Iraqi Freedom as ''two campaigns in the Global War on Terrorism.'' I am not sure what ''terrorist infrastructure'' was destroyed in Iraq. Some reports indicate the terrorist presence in Iraq has actually increased since the collapse of Saddam Hussein's brutal regime.

I just don't want anyone to think my vote means I agree with every word of this amendment. I voted for the McConnell amendment because I absolutely stand behind our troops and their families.

Mrs. LINCOLN. Mr. President, I will vote in favor of Senator MCCONNELL's sense of the Senate amendment because it expressed strong support for our Nation's armed services and their success in accomplishing the important mission to overthrow the regime of Saddam Hussein. I am especially proud of the men and women in uniform from Arkansas who represent the best and brightest our country has to offer. It is vital that we continue to support our troops in every way we can, as they continue to come under attack in Iraq.

As Congress continues debate on this legislation and related bills in the future, I believe we in Congress have a responsibility to exercise careful oversight of the administration's plan to rebuild Iraq and to ask tough questions about specific plans, objectives, and results to ensure our mission is accomplished. To that end, we must realistically assess the United States efforts in the war on terror. While the dedication and efficiency of the men and women who comprise our military is unparalleled, recent difficulties in Iraq demonstrate that there is much work left to be done.

Mr. HOLLINGS. Mr. President, there is no question that I, along with every Member of this body, support the troops. But with respect to the amendment proposed by the Senator from Kentucky, the majority ought to be ashamed for wasting the Senate's time with this political booby trap.

The amendment states that Saddam was a threat to our national security. He was not. We had him contained in the north and the south with overflights, and had the weapons inspectors

back in doing their work in Iraq. The amendment states that the United States pursued sustained diplomatic, political, and economic efforts to remove the so-called threat peacefully. That is wrong. We said to the United Nations, ''Get out of the way. You're irrelevant.'' We said to the international community, ''You're either with us or against us.'' Before we removed Saddam, we removed Hans Blix. The amendment says we eliminated terrorist infrastructure in Afghanistan and Iraq. Just read the morning paper and you will know that is not true. They have plenty of terrorist infrastructure, and they are killing our soldiers every day.

As I have said many times before, the majority is only interested in the needs of the campaign, not the needs of the country. We have serious work to do, and they are playing political games. If we really supported our troops, we would pay for this war. Instead, we are telling our troops that they not only have to fight the war, they have to come home and pay for it, too.

Mr. REID. I say to my friend from Kentucky, if the Senator yields back his time, we will yield back our time and go to a vote on this matter.

Mr. MCCONNELL. I yield the remainder of my time.

Mr. REID. We yield the time on our side.

The ACTING PRESIDENT pro tempore. All time has been yielded back.

Mr. REID. I ask for the yeas and nays.

The ACTING PRESIDENT pro tempore. Is there a sufficient second? There is a sufficient second.

The question is on agreeing to the amendment (No. 1795), as modified. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. REID. I announce that the Senator from Florida (Mr. GRAHAM) is necessarily absent.

The ACTING PRESIDENT pro tempore. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 98, nays 1, as follows:

[Rollcall Vote No. 372 Leg.]

YEAS—98

Akaka	Collins	Hagel
Alexander	Conrad	Harkin
Allard	Cornyn	Hatch
Allen	Corzine	Hutchison
Baucus	Craig	Inhofe
Bayh	Crapo	Inouye
Bennett	Daschle	Jeffords
Biden	Dayton	Johnson
Bingaman	DeWine	Kennedy
Bond	Dodd	Kerry
Boxer	Dole	Kohl
Breaux	Domenici	Kyl
Brownback	Dorgan	Landrieu
Bunning	Durbin	Lautenberg
Burns	Edwards	Leahy
Byrd	Ensign	Levin
Campbell	Enzi	Lieberman
Cantwell	Feingold	Lincoln
Carper	Feinstein	Lott
Chafee	Fitzgerald	Lugar
Chambliss	Frist	McCain
Clinton	Graham (SC)	McConnell
Cochran	Grassley	Mikulski
Coleman	Gregg	Miller
Murkowski	Rockefeller	Stabenow
Murray	Santorum	Stevens
Nelson (FL)	Sarbanes	Sununu
Nelson (NE)	Schumer	Talent
Nickles	Sessions	Thomas
Pryor	Shelby	Voinovich
Reed	Smith	Warner
Reid	Snowe	Wyden
Roberts	Specter	

NAYS—1

Hollings

NOT VOTING—1

Graham (FL)

The amendment (No. 1795), as modified, was agreed to.

Mr. REID. I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BIDEN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

AMENDMENT NO. 1796, AS MODIFIED

Mr. BIDEN. Mr. President, I send a modification of my amendment, No. 1796, to the desk.

The ACTING PRESIDENT pro tempore. The amendment is so modified.

The amendment, as modified, is as follows:

At the end of title III, add the following:

SEC. ____. (a) PROVISION OF FUNDS FOR SECURITY AND STABILIZATION OF IRAQ THROUGH PARTIAL SUSPENSION OF REDUCTIONS IN HIGHEST INCOME TAX RATE FOR INDIVIDUAL TAXPAYERS.—The table contained in paragraph (2) of section 1(i) of the Internal Revenue Code of 1986 (relating to (relating to reductions in rates after June 30, 2001) is amended to read as follows:

''In the case of taxable years beginning during calendar year:	The corresponding percentages shall be substituted for the following percentages:			
	28%	31%	36%	39.6%
2001	27.5%	30.5%	35.5%	39.1%
2002	27.0%	30.0%	35.0%	38.6%
2003 and 2004	25.0%	28.0%	33.0%	35.0%
2005 and thereafter	25.0%	28.0%	33.0%	38.2%''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 2004.

(c) APPLICATION OF EGTRRA SUNSET TO THIS SECTION.—The amendment made by this section shall be subject to title IX of the Economic Growth and Tax Relief Reconciliation Act of 2001 to the same extent and in the same manner as the provision of such Act to which such amendment relates.

Mr. REID. Will the Senator yield?

Mr. BIDEN. I am happy to yield.

Mr. REID. We have spoken to the chief sponsors of this amendment, Senators BIDEN and KERRY. There is a tentative agreement on our side as to how much time will be used. The floor staffs are working now to see if we can enter into an agreement in the next little bit. In the meantime, rather than waste valuable floor time, Senator BIDEN is going to begin his debate.

The ACTING PRESIDENT pro tempore. The Senator from Delaware.

Mr. BIDEN. Mr. President, I am prepared to enter into a time agreement. In the meantime, rather than waste time, let me begin to discuss my amendment.

We had a debate yesterday, an opening debate about whether we should be moving forward with this legislation for $87 billion to fund the war. Again, for those who may be listening, I want to state where I, as they say in the vernacular, come from on this score.

I have been one among many, from Senator REED, former West Point graduate, an Army officer, a U.S. Senator, to JOHN MCCAIN, to CHUCK HAGEL, on both sides of the aisle, among those who have said that our biggest problem is we have not, quite frankly, devoted sufficient resources in a timely way to winning the peace in Iraq. So I began from the premise that there is no doubt we have to spend billions of more dollars. There is no doubt we have to keep in Iraq tens of thousands of American troops for some time. As a matter of fact, I said that as long ago as July of 2002.

I approach this thing from the perspective of one who thinks we must do more. I have several basic problems with the approach we are taking. I know the Presiding Officer and I had a very brief conversation about this. He made reference yesterday to me, that I was somewhat exercised in my presentation yesterday. I was. I am, because I think there is such a gigantic opportunity here to enhance the security interests of the United States.

So, again, the reason I bother to say this is, I think there are two serious problems with the approach the President is taking now relative to this $87 billion. One is, I think that after examination—and I will have several more amendments before this debate is over—I think there is some padding in this reconstruction money.

I am one who believes you cannot bring security to Iraq without bringing basic services to Iraq. I think there is a direct and immediate correlation. Those who say you can separate support for the military and reconstruction money either have not been to Iraq or don't think we should be in Iraq or, with all due respect, don't understand the dynamics.

The degree to which clean water doesn't flow, the degree to which young women are being raped in the streets, the degree to which police officers are afraid to go to their stations and do their job, the degree to which the electric lights do not go on, the degree to which the oil pipelines are blown up, there is a direct correlation between that and the danger posed to our troops, the danger posed to our being able to preserve the peace or bring about or win the peace. So I don't make that dichotomy between reconstruction moneys and moneys relating to ''supporting our troops.''

Reconstruction money will support our troops. It supports our troops. My disagreement with the President is that—I am not talking about past disagreements and mistakes made or not

made, in my view, just from this moment on—I think if you look at the reconstruction funds, some of it is—maybe not intentionally—inflated.

For example, there is a provision in there for x number of pickup trucks. We were not talking about Humvees or military vehicles. They need pickup trucks. The government needs them for basic, mundane purposes. Well, in the authorization here, we are going to pay $32,000 for a pickup truck. I can take them to a nice Chrysler plant in my State and get them for $18,000.

We are also talking about building prison cells. I spent some time, along with my friend, Senator LUGAR, and my friend, Senator HAGEL, out at the police training academy in Baghdad, and we talked to—I might add, we have a first-class team there. These are serious guys. These guys know their way around. They have been in Bosnia, Kosovo, and Afghanistan, and they understand this. There is money in here that comes to $50,000 per prison cell. We need to build prisons. There are no functioning prisons in Iraq. We have to build them.

By the way, the guy running our prison operation there, when asked how long it would take if he had all the resources he needed, he said it would take a couple years to get a prison system up and running.

But that is not the point. We are going to pay $55,000 per bed in an Iraqi prison. We pay half that here in the United States of America. We are in a country, I might add, where the building specs and requirements are less than they are here. So I think we have to be responsible and take a look at the details of this.

So my first concern is about whether or not the money is being efficaciously allocated. That is a responsibility of oversight that we have. That is our job. We can do it in a timely way and we will get this finished within a week or so and get it done. That is the first concern I have, in a practical sense, on what we are going to do on the floor.

The second concern is my monumental concern. My friend from Utah—and we say that lightly, but he really is my friend—a conservative Republican—and for those of you who think none of us get along around here, we have very different views, but we are close friends. I can say to him that my biggest problem is how we pay for this. That is what I want to talk about right now because that is the second significant element of my concern on the immediate question before us: Do we appropriate or authorize to be appropriated $87 billion or do we appropriate $87 billion for this effort? I want to speak to that. That is what my amendment is about. That is what is before the Senate now.

At the outset, the first fellow with whom I spoke about this, the guy whose brainchild it was, along with me, is my friend from Massachusetts, JOHN KERRY. As a matter of fact, immediately after my floating this idea on one of the national shows—''Meet The Press,'' or whatever it was—I immediately got a call from Senator KERRY saying he had been thinking along the same lines and could we work together to do this. This is a joint effort, and we are joined by Senator FEINSTEIN, who feels strongly about it, and a number of others.

I wish to acknowledge at the front end here how we got to this point. I wish to explain the modification I sent to the desk and go into the details of why I think this is an important and necessary and responsible amendment. Again, remember, this is not coming from a guy who didn't support the war, who won't support the funding; it is coming from a guy who thinks we are going to have to come up with this $87 billion, but we are going to have to come up with billions more. I wish the President would be as straightforward. This is a downpayment; this isn't the end of the road.

Now, initially, I had an amendment because I didn't have the detailed numbers from the Joint Tax Committee, the Finance Committee, and from outside experts, such as Brookings and Citizens For Fair Taxation and the like, because it takes a while to run these numbers. So, initially, we had put in an amendment that said we would authorize—which is constitutional—or direct the head of the IRS to find this $87 billion from a specific category of taxpayers. We now have hard numbers. The hard numbers are very straightforward.

In order to pay now for the $87 billion we are about to appropriate, we are proposing that the tax rate for the wealthiest Americans, which has dropped this year from above 39 percent down to 35 percent—and I am not arguing about that—and in order to find $87 billion to pay for this, we would have to go back under our formula to that roughly 1 percent of the taxpayers—actually, the top bracket is less than 1 percent of the taxpayers—and say to them your tax rate is going to go back up in the years 2005, 2006, 2007, 2008, 2009, and 2010 to 38.2 percent. So that is what I sent up to the desk. It was a detail that wasn't in my original amendment because we didn't have it from Joint Tax. We didn't have it laid out. So that is a brief explanation of the modification.

Now, let's go back and review the bidding here if we can. First, we can pay for this supplemental several ways. One, we can pay for it, as the President has suggested, by increasing the deficit. If this is added to the projected deficit for 2004, the deficit for 2004 will rise to $567 billion for that one year—next year. If we do not add it to the deficit, the projected deficit at this moment would be down, obviously, around $480 billion—still a gigantic amount but $87 billion less. The reason I am so opposed to doing that is on equitable grounds and grounds of economic recovery. On equitable grounds—and I know this sounds a little political the way I am going to say this, but it is factually accurate—on equitable grounds, we, the grownups in this Chamber—and the average age here is probably roughly 50, I would say—we are going to be asking these young pages walking down the aisle to pay this bill. Literally, we are going to ask them to pay. We are not going to pay. If we can't do it my way, they pay. The President—I quoted him yesterday—in his last State of the Union Address said we are not going to pass on these debts and problems—at the end, I will actually give an exact quote—basically he said we are not going to pass these responsibilities to fight terror and to pay for it on to other generations. That is exactly what we are doing here.

For those of you who think that may not be a very compelling argument and those of you who voted for the tax cut because you wanted to spur economic recovery—a legitimate argument; I disagree with the way it is formulated and voted against it but a legitimate argument—look at what is happening now: As the deficit has been projected to be 480, or thereabouts—and the Presiding Officer and my friend from Utah and my two colleagues from California and Massachusetts know more about this than I do—what has happened? Long-term rates have already begun to rise. What does the market say? Why are long-term interest rates rising? Because of the projected deficits. That is a fact. They are already rising.

I respectfully suggest that taking $87 billion out of a 10-year tax cut of $1.8 trillion has no impact—none—on economic recovery, particularly since it is taken out over a 6-year period in small increments beginning in 2005. But if you are worried about the impact on the economy and the ability to sustain a recovery, you better be looking at the debt.

I would argue that from a principle of equity, as well as sound economic principles related to the recovery, adding this $87 billion to the already gargantuan projected deficit—and it will be higher, by the way, because that does not even count prescription drugs, that does not count the other initiatives the President says we are going to do and Democrats say they want to do, it does not even count those programs yet, so we know it is going to be a heck of a lot higher—but to add $87 billion on top of that can do nothing but jeopardize a long-term recovery.

The second way we can pay for this, which is very popular—and I am sort of the skunk at the family picnic on this on my side of the aisle—is to let the Iraqis pay for it. Some are saying the Iraqis have the second largest oil reserves in the world. Some of my Republican friends are proposing this as well.

For example, we have a flooded home. We have a very competent county executive dealing with this, and he says if we can pay for Iraq, the Federal Government can pay for this. That is really compelling. I tell you what, I am

kind of glad I am not running this year because I am going to oppose it. To the average person and the above average person, this just seems fair.

We hear people saying on the floor: If they had gold reserves of X amount, we would indemnify ourselves; they have gold in the ground, black gold. That is a very compelling case, except, as my mother would say—God love her, and she is probably listening, so, mom, forgive me if I get it wrong—she always used to say when I was young: JOEY, don't bite your nose off to spite your face. If we do that, we will be, figuratively speaking, biting our nose off to spite our face.

Why? There are other countries around the world—in the Arab world, the European world, Russia, other countries—that are owed almost $200 billion by Iraq, some say as high as $300 billion. Some of that is direct loan payments; some is indemnification for the damage done by Saddam when he invaded Kuwait, and so on.

What are we doing? We can either choose the World War I model or the World War II model for a defeated nation. After World War I, we said: Germany, this is all your fault. We want you to have a democracy, but, by the way, in the meantime, pay off all these reparations, making it virtually impossible—how many of us in grade school and college saw that one cartoon that was in every single history book: A German lady in a babushka carrying a wheelbarrow of deutsche marks to the butcher shop.

I bet every one of you can remember that. It was in every textbook in America. Why? It produced a little guy named Hitler to prey upon all of the anger, all of the prejudice, all the furor of the German people.

Who thinks we can possibly establish a democracy in a country which, I might add, has no history of any democratic institutions and was never a country until 1919—who thinks we can establish a democracy there saying, by the way, start off, folks, but before you do anything, before you spend that $35 billion to redo your oil fields, before you spend the money to do this or that, pay off the $200 billion, $300 billion in debt?

The President has been dead right. The President has been saying and the Secretary of State has been saying we have to convince these other nations to forgive that debt and write it off, as we did. Write it off.

On top of that, what did the President say at the United Nations? Not well enough, in my view, with all due respect, but what did he say? He said: United Nations, this is the world's problem. This is your problem. Send money and send troops. Every one of us here are hoping that Powell is very successful with a thing called the donors conference that is coming up this month. We are going to be sitting down with other nations of the world and saying: By the way, can you guys ante in? We have roughly in the whole region close to 200,000 troops, and we have already spent $78 billion, and we are going to spend another $87 billion. Can you kick in some money to rebuild this country? Oh, and by the way, we want you to forgive the debt you are owed. We want you to kick in money. We are not going to indemnify any of your money, but, by the way, the $20 billion we put in for reconstruction, we have a claim against Iraqi oil.

We are all intelligent people in this Chamber. We may be able to indemnify this money, but we will have no Iraq to collect it from. There will be nobody to collect it from because if this debt is not forgiven and if more people do not get in the game, there is not going to be peace in Iraq. It is not going to happen, and that is what I meant when I said, as unpopular as it is, my dear old mom—mom, if you are listening, you are right—we are about to bite our nose off to spite our face. That is the second way we can do it, and I think it is a disaster to do it that way.

There is a third way we can pay for this $87 billion. We can say a very uncharacteristic thing around here: We are going to pay for it, and we are going to pay for it now. We are not going to use our credit card; we are going to do it now.

As Don Rumsfeld said, yes, this is a lot of money, but, yes, we have the ability to pay for it, and he is dead right. Old Don, I want to take a little bit of your money to pay for it. You are a 1 percenter, and God bless you, let's pay for it.

OK, how do we pay for it? We can cut more programs.

As some have suggested, we can make college loans more expensive. That saves the Government money. We can do as some have suggested and cut across the board the income tax break we gave everybody. But guess what. Poor folks and middle-class folks are already paying for Iraq. It is their kids who are in Iraq. It is their kids in the National Guard. It is their kids in the Regular Army. It is their kids who are already there.

Guess who is getting hurt most by this unemployed recovery. Middle-class and poor folks. I think the middle-class folks need a tax break, and so I think it would be unequitable and unfair to go back now and say, by the way, you middle-class folks, you pay; you poor folks, you pay. We have already decided the poor folks cannot get an earned income tax credit for their kids, a child tax credit, which is a travesty. But now we are going to raise their taxes slightly or reduce the tax cut?

So it seems to me there is a group of people who are as patriotic as the poorest among us, the wealthy people. The thing I do not like about politics is we all have a tendency to slip into—and I can honestly say I have never done this in 33 years of holding office—class warfare. The idea that because someone is a multimillionaire they are not as patriotic as somebody who is making 25,000 bucks a year is a lie. The wealthiest among us are as patriotic as any other group of people in America.

I come from Delaware, a relatively wealthy State. I tried in two fora in my State, and this is literally true, among some of the wealthiest people in my State—in my State we can get them all together pretty quickly. I am not being facetious about that. I mean that sincerely. I asked the question at one gathering—both were social gatherings. The first was a group of about 35 or 40 people, and I do not know this for a fact, but I think all of them were clearly in the top 1 percent tax bracket. The way the conversation started was they said to me: You know, JOE, what is going on in Iraq? What about this? What about that? It was a cocktail party at the home of a partner in a major law firm. It was on a Sunday evening.

I said: Let me ask you all a question. My friend from California knows when two people ask a question and you start to answer it, it ends up with four people there and then 10 people there, and all of a sudden you have a mini-press conference and there are 20 people. That is what happened at this cocktail party on someone's patio.

I said: Let me ask you this question: would anybody here object if the President, when he addressed the Nation about the $87 billion, had said—and I want to ask the wealthiest among you, the top 1 percent of the taxpayers in America—give up 1 year of the 10 years of your tax cut in order to help prosecute this war against terror and sustain the peace in Iraq, would any one of you object to that?

Obviously, that is a little peer pressure I put on them, but not a single person said they would object. Beyond that, it started a discussion. I just sat there and listened. They said, of course, that is the right thing to do. Of course, we should do this. Of course, of course, of course.

Then I tried it again at one of the most upscale country clubs in my State. I was playing in a charitable golf tournament, and there was the same thing.

I think the President and many of my colleagues underestimate the American character. I truly believe they underestimate Americans. I do not know of any wealthy American who, given the realistic options we have to pay for this, would say, hey, look, if I am going to give up 1 year of the $690 billion the 1 percent is going to get, I want that guy making 25 percent of what I make, I want that guy making 10 percent of what I make to give up one year, too.

Do any of my colleagues believe that is what they would say? I do not believe it. And this is not politics. This is not my playing a game. I do not believe it. This is something that not only is the right thing to do, the people whom you are asking to do it believe it is the right thing to do.

I stated on the floor before and I said at home, I would ask any wealthy Delawarean in my State, which we will get

to the numbers, who makes $400,000 in gross income, to call me at my office and tell me they are not willing to give up $2,100 a year for 6 years of their tax cut, because that is what it comes to. I am inviting them to call me. I promise I will report to my colleagues all those who call me.

The point is, these are patriotic Americans. They know we have our hands full. They know the deal. So that is the third way we can do this.

How does it practically work, and then I am going to yield to my friend from Massachusetts.

Mr. BENNETT. Will the Senator yield?

Mr. BIDEN. I will be delighted to.

Mr. BENNETT. I am listening with great interest. I agree with much of what the Senator said, but before the Senator from Massachusetts gives a major speech I would like the opportunity to engage in a colloquy.

Mr. BIDEN. Sure, but first let me make one last point so we have the facts out.

Mr. BENNETT. I would ask the Senator to make his point and then I would appreciate it if we could do that.

Mr. BIDEN. I would be happy to.

Let me be straight about exactly what this amendment would do. People whose tax bracket up until this year was 39.6 percent, having had it drop down to 35 percent—so there is no false advertising here, the Biden-Kerry-Feinstein-Chafee, et cetera, amendment would raise, beginning in 2005, their tax bracket back up to 38.2 percent, still a percentage point and a half less than it was a year ago but 2 point something percent higher than it is today. That is what it would do.

By the way, I will tell my colleagues who these folks are. People who pay at the top rate have an average income—well, it is unfair to average. As Samuel Clemens, or rather Mark Twain, said, all generalizations are false, including this one. So I want to be completely straight about this. The average income in that top 1 percent is $1 million a year. At a minimum, people who would be affected by this have to have an income, before standard deductions and exemptions, of over $400,000 in gross income. Others will fall into this category if their taxable income after deductions is over $312,000. But that is after; that is net. That is taxable income. OK.

So we have the picture where people—the way I am told by the Joint Tax Committee, by Brookings and others, we may find an exception to this, but there is nobody making $400,000 a year gross who does not have standard deductions and exemptions. By the way, this does not impact on their capital gains, which is taxed at a different rate. This does not impact on the dividend exemptions or change the rate at all. That is still theirs. We do not touch that at all. This is just a straight tax of those who now fall within the 35 percent bracket.

So I am told by all the experts—and this is not my expertise. To the extent I have one, I think it is more on the Constitution and foreign policy, and I am not suggesting I have one, but it is surely not here. I have tried to get the best information from as many sources. So we are talking about the incomes of people in the top bracket who are—by the way, if one is in the top bracket now they are in the less than 1 percent bracket, they are about .7 of 1 percent of the income earners in America. One percent is slightly bigger than those who fall within the 35-percent tax bracket right now. But if you overlap, as Dr. Green tells it, if you overlap the two circles, they are almost exactly the same. There is some variation, but I can only go by the numbers provided by the IRS, and the models provided by them, and by our Joint Tax Committee.

So the bottom line is this: The people in the top 1 percent—slightly more, by the way, than the people in the 35-percent tax bracket now—those people, over the period of this entire tax cut, will receive $688.9 billion in tax reduction from what they were paying before the tax cut. What this does is it takes $87 billion of that amount, leaving them with a present and future tax cut of $600 billion, as opposed to $688.9 billion.

This is to put it in perspective. Fully 80 percent of their fellow Americans, in the first four quintiles—you know how they divide this up. They divide it up into the first, second, third, fourth, and the fifth is the 1 percent. In other words, all other Americans, the 99 percent of the other Americans who pay taxes get a cumulative tax cut, in the first—they will get cumulative tax cuts of $599 billion. All right? So you have the top 1 percent who will still get $600 billion, which will be $1 billion more than every other American combined will get in a tax cut.

Let me be precise. I may have misspoken. That is not true. The first four—than 80 percent of the American people will get.

Now, again, this is not an attack on the tax cut. I didn't like the tax cut, and I won't talk about that. But what Senator KERRY and I are trying to do takes away less than 5 percent of the $1.8 trillion in tax cuts that this tax cut bill provides. Again, it is not an attack on those at the highest income. It still leaves them $600 billion in tax cuts.

There is a lot more for me to say, but I will yield now to my friend from Utah for that colloquy.

Mr. BENNETT. I thank the Senator from Delaware not only for his courtesy and friendship, which is reciprocated and, as he has said on the Senate floor, is genuine and real, but I thank him for the clear manner in which he has described this whole situation. I agree absolutely with the overall conclusion that he has come to with respect to loans versus grants. I am running this year, and I am going to have to defend the grant situation, but I am perfectly willing to do so for all the reasons which the Senator from Delaware has outlined.

But there are a few comments I would like to make in the spirit of our friendship and the seriousness with which the Senator from Delaware has approached this issue—at random. The Senator from Delaware is often at random so he can understand.

The references to the Marshall plan and the difference between World War I and World War II are accurate, but I would like to just add one factoid.

Mr. BIDEN. If the Senator will yield, I want to make it clear I did not reference the Marshall plan. I referenced the philosophy. I think we have overworked the Marshall plan analogy.

Mr. BENNETT. I agree with the Senator we have overworked it and I want to back away from it with this fact. The country that received the most money in the Marshall plan was Great Britain. It was not rebuilding destroyed countries, destroyed by virtue of our actions in the war. It was rebuilding Europe that was exhausted by the struggle that really began in the First World War and never ended. I think that is the appropriate analogy here.

I do not view Iraq as a defeated nation. I view Iraq as a victorious nation that has won a struggle of almost four decades in length with our help.

Mr. BIDEN. If the Senator will yield, I agree with that premise. I am not making the case they are a defeated nation.

Mr. BENNETT. The Senator used the phrase ''defeated nation.'' I think it is, in fact, a victorious nation but an exhausted one by virtue of the 40-year struggle. The grant we are talking about here is essential to come back from that 40-year experience.

The second random point: I listened to the Senator's comments about the deficit. All I know, both before I came here and in the relatively brief period of time I have been here, is that no matter what figure we use with respect to the deficit in the future, it is wrong. I don't know whether it is too high, and I don't know whether it is too low, but I do know one thing for sure, it is wrong.

Mr. BIDEN. Will the Senator yield on that point? The Senator will agree, though, that whatever it is will be $87 billion higher if we don't pay for it.

Mr. BENNETT. No. No. I will not because the deficit is a function of the vitality of the economy. If the economy is stronger than the computers at CBO are currently saying it is, the deficit could disappear and we could have the whole $87 billion.

I am not saying that we will because I don't know.

Mr. BIDEN. If the Senator will yield on that point, if the Senator thinks there is any possibility of the entire deficit disappearing through economic growth in the next several years, then I think he and I should have a talk now because the Senate physician is down the hall here and we ought to go have

a little visit with him. I know he doesn't seriously mean that.

Mr. BENNETT. I think the possibility is extremely, extremely small.

Mr. BIDEN. I believe in miracles, too. I am a Catholic. I believe in miracles.

Mr. BENNETT. I do, however, know that over 50 percent of the shortfall in the projected surplus that we were talking about at the time we started, in 2001, is due not to the tax cut and not to increased spending but to the downturn in the economy. If the economy should come back to be as strong as it was before—and there are signs that it is recovering nicely now—that 50 percent could be recovered.

So, no, I agree that we will not remove the deficit, but I think it is an inaccurate statement to say it will be exactly the $87 billion.

We do that around here and it frustrates me as a former businessman. It frustrates me as a legislator. We are constantly taking the latest numbers from CBO and assuming that they are cast in stone. Then 3 months later, when we get the next set of numbers that completely contradict the earlier ones, we say: Oh, these are the true numbers, and we go on and on. I am not arguing with the Senator's general direction, but I wanted to be a little careful in the specificity with which he outlines this.

Let me get to the heart of the issue that I have with the proposal the Senator is making. I hope I can do this without being too arcane, and I hope I can do it quickly because I recognize I am on the Senator's time and I again thank him for his courtesy.

Mr. BIDEN. May I ask, there is no time agreement right now; is that correct?

The PRESIDING OFFICER (Ms. MURKOWSKI). That is correct.

Mr. BIDEN. So the Senator is entitled to have it on his time.

Mr. BENNETT. I thank the Senator. I think his experience at his cocktail party is one that would be repeated by every one of us if we were to gather people of that kind of income in any one of our States. So why don't we all join with the Senator from Delaware? Why am I not saying I agree with him?

If I may illustrate the reasons with a personal example, not all of the tax returns that are filed and that are in the statistical sample the Senator described represent income to individuals. I do not know the current number. I would have looked it up if I had known I was going to get in this exchange. But other numbers have said 75 percent, 80 percent, or some very high figure of percentage of those tax returns that show $400,000 in gross income are, in fact, not income to the individual. Let me give you my personal example to illustrate this.

Before I came to the Senate, I was CEO of a company that was an S corporation. S corporations as opposed to C corporations are exactly the same thing except for the way they are taxed. The ''S'' refers to that section of the Tax Code that is appropriate and ''C'' refers to that section of the Tax Code that is appropriate. In an S corporation, the earnings of the company flow through to the shareholders and are reported on the shareholders' personal tax returns. Therefore, they show up as income to the individual.

I will again use myself as the example. I was the CEO of this company. I was earning $140,000 a year as the CEO of the company. The company started to do really very well. It was growing very rapidly. Sales were more than doubling every year. We were bringing on new people. We were building new buildings. We needed every dime of capital we could put our hands on. Fortunately for us, we were doing this during what the New York Times called ''The Decade of Greed;'' that is, when the top marginal tax rate was 28 percent.

By putting the income of the company on my personal tax return and those of the other shareholders, the company was paying an effective rate of 28 percent which meant we got to keep 72 cents out of every dollar we earned to finance the growth of that company. We created that company with internally generated funds. We didn't do it by going to the stock market. We didn't do it by going to the banks. Of course, we had a line of credit at the bank. But it was not part of our capital. That meant one of the last years before I left the company and decided to run for the Senate, my compensation from the company was $140,000.

Let us go through these numbers.

My compensation from the company was $140,000. My share of the company's profits which was reported on my 1040 was $1 million. As far as the IRS was concerned, I was a very rich man who was earning $1.14 million a year. All I got was $140,000. The rest of it, while reported on my tax return, was kept in the company to pay for the growth of the company.

Mr. KERRY. Mr. President, will the Senator yield for a question?

Mr. BENNETT. I am happy to yield to the Senator.

Mr. KERRY. Isn't it accurate that because it was a subchapter S corporation all of the deductions also flowed through to you? Isn't it accurate? All the deductions flowed through you?

Mr. BENNETT. Of course. The net amount I reported after the deductions was $1 million. So as far as the IRS was concerned, my income was $1.14 million. Under the Tax Code, the deductions to which the Senator from Delaware referred that go to people in these categories were all wiped out by the $1 million. All of my credits, all of my deductions—everything was wiped out.

If we were to take the numbers the Senator from Delaware was talking about, and say, OK, you have someone with a $400,000 gross income, and that means his after-tax income is $312,000 because of the standard deduction, if he has a chunk of 401–K income on this from either an S corporation or an LLC corporation, or a partnership, all of those standard deductions go away very quickly as the number goes up.

The point of this is not to argue one way or the other about how the tax structure is; it is to say the Senator is inadvertently targeting a large number of small businesses where profits and growth money are being reported on individual returns rather than through corporate returns. The S corporations were made substantially worse after the Reagan years because of the summit at Andrews Air Force Base, and then what was done with the Clinton tax increases.

There are not as many people using the S corporations as there used to be because the advantage is not as great. But there is a still a very substantial amount of small business income that will be hit by the Senator's amendment. We are not just talking about Donald Trump and Jennifer Lopez. We are not talking about Michael Jordan. We are talking about people who are building businesses for whom $400,000 a year for the income of the business is a demonstration of a struggle. It is not a demonstration of the kind of opulence you find at the Delaware country club. It is survival. We didn't get to the point with the business I have described where we felt comfortable in cash flow until our earnings were well into the $10 million, $12 million, or $15 million area because of the demand for capital.

Mr. BIDEN. Mr. President, will the Senator yield?

Mr. BENNETT. I would be happy to.

Mr. BIDEN. We are trying to get this agreement. As a practical matter, this will come out of my time. I think the Senator has made his point.

Let me make a macroeconomic point and let some of my other colleagues respond as well. With regard to the small businesses, small business owners can still happen to be among the top 1 percent income earners. Only 2 percent of the small business owners fall into that bracket, a number which includes a lot of people who have passive participation with investment income in small business. These are not hands-on, mom-and-pop businesses. If you look at the sole proprietorships, those of hands-on owners, less than 2 percent are paying the 35 percent bracket. Therefore, 98 percent of the small business owners will not be affected by this proposal, as I understand from staff.

I will get back to this in our discussion. But I want to yield to my friend from Massachusetts because we are about to enter into a time agreement. I didn't realize we were running the time before the agreement is made. At any rate, I will reserve the remainder of the time while we are trying to work this out.

To respond to my friend, I understand his point. The bottom line is no matter how you cut it, this is affecting an incredibly small number of people for an incredibly important undertaking and the alternatives are worse

by a long shot, in my view, that any negative impact in any sector in any way would come from this amendment.

I yield the floor.

Mr. REID. Madam President, we are moments away from offering a unanimous consent request. I don't know who is going to get the floor next, but whoever gets the floor, I ask if Senators will allow an interruption for the unanimous consent request. It should be coming in a matter of a couple of minutes.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KERRY. Madam President, thank you very much. I will proceed until such time as the unanimous consent request is put into effect.

I listened carefully to the comments of the Senator from Delaware, and obviously the Senator from Utah. I think the comments of the Senator from Utah do not really change the equation at all because the real question here is, Why is America being asked to pay this $87 billion? What is the context within which the average citizen of America, the average taxpayer is now being told, Whoops, we have a whole different situation here. We have to pay $87 billion in addition to the $79 billion Americans have already invested in the war to date.

Most Americans think this is sort of the bill for the war. It is not. We are well over $160 billion or $170 billion already once you add the $87 billion, and most people believe it is going to go beyond that.

The question is, What is the fair distribution of this burden in the overall context of our economy to the average taxpayer of America? Is it right for President Bush and for the Republicans to be asking America to give an enormous tax cut to the wealthiest of Americans and spend the $87 billion, which also adds to the deficit for this year?

No one will come to the Senate and say the $500 billion deficit we are facing next year is going to be wiped out by growth in the economy when we are not even adding jobs in the growth to the economy today.

I yield to the Senator.

Mr. BENNETT. Madam President, I ask unanimous consent that a vote in relation to the pending Biden amendment occur at 3:15 p.m. today with no amendment in order to the amendment prior to the vote, provided the debate before the vote be 30 minutes under the control of the Republican side and the remaining time under the Democratic leader or his designee.

Mr. REID. I ask that the Senator allow the consent to be modified, as follows: Senator BIDEN be recognized for 30 minutes, within the time allocated to us; Senator KENNEDY for 15 minutes; Senator KERRY for 20 minutes; Senator KOHL for 5 minutes; Senator CLINTON for 10 minutes; Senator CONRAD for 15 minutes; Senator Jack Reed for 5 minutes; Senator DURBIN for 5 minutes; Senator FEINSTEIN for 10 minutes; Senator JOHNSON for 5 minutes, Senator CARPER for 5 minutes; and if there is any time remaining, it would be under the control of the Senator from Delaware.

Mrs. FEINSTEIN. Reserving the right to object, I ask that this be amended, since I have been waiting, so that I follow Senator KERRY for my time.

Mr. REID. I think that is appropriate. And Senator BUNNING will follow Senator FEINSTEIN.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Massachusetts.

Mr. KERRY. The question we ought to be asking is, What is the right thing to do that is in keeping with the values of America? We have the worst economy we have had, the worst jobs economy since Herbert Hoover was President of the United States; 3.1 million Americans have lost their jobs, 2.7 million manufacturing jobs have been lost. All across America, people are watching outsourcing taking place as jobs are going to China, India, and other countries. They are not being replaced. We just picked up the newspapers a couple of days ago and saw that 2 million Americans have lost their health insurance retirement, it has been blown away for countless numbers of Americans. Health care has been lost for 2 million Americans. Governors across the country are raising taxes and cutting services. Infrastructure investments are being deferred.

What the Republicans and the President are asking is that we take another $87 billion and still keep a tax cut for the wealthiest people in our country who are doing the best, who are already the most comfortable, who are perfectly prepared to do their part to sacrifice, to contribute, not to grow the deficit—indeed, to relieve some of the financial pressure of this country, literally, to make things more fair in America.

What this is about is called fundamental fairness. Fairness. It is not about class warfare. This is not about redistribution. Is it fair in America to suggest that you can add to the deficit—which it will this year—to suggest all of the figures of this administration, which have been wrong, can be wiped away on the backs of the average American so that the wealthiest people in the country can keep their tax cut? That is the question. It is a pretty simple fundamental question.

If others want to come to the Senate and defend the notion, it is absolutely OK to be misled, to have major players in the administration tell us, it is only going to cost $50 billion; it will come out of the Iraqi oil; don't worry about it. And every one of those promises have been wiped away and left in tatters across this country.

Americans are angry about this. What is the Senate going to do? Stand here and defend the proposition that America in its current fiscal condition can support a tax cut for the wealthiest Americans at the expense of common sense and fairness? That is what this vote is about. That is what this choice is about.

It also is about the fundamental realities of how we got here. Last spring, our fighting men and women swept across the battlefields of Iraq. There is not anyone in the Senate who is not proud of what they accomplished in military terms. Thanks to their courage and their skills, Saddam Hussein and his henchmen are scattered and that brutal regime is no more.

But in the aftermath of that military victory, just as many Members predicted, in the absence of building a coalition, in the absence of doing the diplomacy, in the absence of showing patience and maturity, in the absence of living up to our highest values and standards about how we take a nation to war, we are now in danger of losing the peace.

The clearest symbol of that danger is the target on the backs of young American men and women in Iraq. Today, soldiers in Baghdad fear getting shot simply going out and getting a drink of water. A squad at a checkpoint has to worry whether a station wagon coming at them is a mobile bomb. And troops moving in convoy take RPGs and improvised explosive devices, and we pick up the papers each day and hear the news about three, two, one more young American life lost because we failed to plan to win the peace adequately, we failed to put in place the greatest protection possible for these troops, which is what they are owed.

Now we know Iraq's infrastructure needs to be rebuilt and we face the challenge of forging a new government and giving it legitimacy under circumstances that were entirely predictable and entirely ignored by this administration. We were told by this administration, in their confidence—and, may I add, in their arrogance—that the Iraqis would see us as liberators.

They see us as occupiers—again, something many predicted absent the effort to try to globalize our effort. They see us as a foreign power ruling over their country, preventing self-determination, not providing it. We were told to expect elections and quick transition to self-governance. But now we know those elections may be many months away at best.

None of this was planned or predicted by the President or his war counsel. Eager to rush to war, the administration played down or, worse, ignored the likelihood of resistance. It lowballed the number of forces that would be needed to seize the alleged WMD sites, for which the war was fought, to protect the infrastructure, and underestimated the magnitude of the reconstruction task and the ease with which oil would flow for rebuilding. It refused to tell the American people upfront the long-term costs of winning the peace.

I remember the distinguished former President pro tempore and leader of the Democrats, the Senator from West

Virginia, asking that question penetratingly, repeatedly. Yet those figures given have proven to be false or completely underballed. It refused to tell the American people those long-term costs, and it refused to do the work, to ask the international community to join us in this effort.

It was bad enough to go it alone in the war, but it is inexcusable and incomprehensible that we choose to go it alone in the peace. One of the reasons we are facing $87 billion is that the administration has stiff-armed the United Nations and has not been willing to bring other nations to this cause through the deftness of their diplomacy, the skill of their diplomacy.

Last year, President Bush had three decisive opportunities to reduce this $87 billion bill. That first opportunity came when we authorized force. That authorization sent a strong signal about the intentions of the Congress to be united in holding Saddam Hussein accountable. I thought, and still believe, that was the right thing to do. It was appropriate for the United States to help stand up at the United Nations and hold those resolutions accountable. It set the stage for the U.N. resolution that finally led Saddam Hussein to let the weapons inspectors back into Iraq. That was correct.

When I voted to give that authority, I said the arms inspections are ''absolutely critical in building international support for our case. That's how you make clear to the world we are contemplating war not for war's sake, but because it may be the ultimate weapons inspections enforcement mechanism.''

The Bush administration, impatient to go into battle, stopped the clock on the inspections, against the wishes of key members of the Security Council, and despite the call of many in Congress who had voted to authorize the use of force as the last resort the President said it would be.

Despite his September promise to the United Nations to ''work with the UN Security Council to meet our common challenge,'' President Bush rushed ahead on the basis of what we now know to be dubious, inaccurate, and perhaps even manipulated intelligence.

So the first chance for a true international response that would have reduced this bill, that would have brought other countries to contribute was lost.

Then there was a second opportunity. After the Iraqi people pulled down the statue of Saddam Hussein in the square in Baghdad, there was a moment when British and American forces had proven our military might and the world was prepared to come in and try to assume the responsibility for helping to rebuild Iraq.

Once again, Kofi Annan and the United Nations offered their help. Once again, this administration gave them the stiff arm. They said: No, thank you; we do not need your help. And we proceeded forward without building the kind of coalition that would reduce the risk to our troops and without reducing the cost to the American people.

Then the third occasion was just the other day, when the President went to the U.N. General Assembly. Other nations again stood ready to help to provide troops and, hopefully, funds. All President Bush had to do was show a little humility and ask appropriately. Instead of asking, he lectured. Instead of focusing on reconstruction, his speech was a coldly received exercise in the rhetoric of redemption.

Kofi Annan offered to help. Again, we did not take them up on that offer in a way that was realistic. The President exhibited an attitude that was both self-satisfied and tone deaf simultaneously, once again raising the risk for American soldiers by leaving them alone, and once again raising the cost to the American people by leaving America alone.

I believe the President could have owned up to some of the difficulties. The President could have signaled or stated a willingness to abandon unilateral control over reconstruction and governance. Instead, he made America less safe—less safe—in a speech and in conduct that pushed other nations away rather than brought them to our cause and what should be rightfully the world's cause.

So what of this cost of the Iraqi operation?

In the fall of 2002, OMB Chief Mitch Daniels told us the costs of Iraq would be between $50 and $60 billion. It is now already more than $100 billion more than that.

In January of this year, Secretary Rumsfeld said the same, and he added that ''How much of that would be the U.S. burden, and how much would be other countries', is an open question.''

Well, today it is not an open question; it is a closed question. We know the answer: The majority is being paid by the American taxpayers.

In March of this year, Deputy Secretary Wolfowitz testified in the Senate that Iraq is a ''country that can really finance its own reconstruction, and relatively soon.''

Did the Secretary mislead us or was the Secretary ignorant?

Again, in March, Secretary Powell testified in the Senate that ''Iraq will not require the sorts of foreign assistance Afghanistan will continue to require.''

When Larry Lindsey predicted the war may cost $100 billion to $200 billion, he was deemed so far off base by the White House that he was fired.

Now, a year later, Congress is set to appropriate over $160 billion, and the costs are estimated to rise to $350 billion to $400 billion over 5 years. Even Larry Lindsey's estimates are now low.

With so much so wrong, Americans are looking to the White House for direction and leadership. They want, and they deserve, straight answers to straight questions.

How long will we be there? How much will it really cost? How many American troops will it take? And how long will it be before we do what common sense dictates and get the world invested in this effort by not treating Iraq as though it is an American prize, a loot of war but, rather, treating it as a nation that belongs in the community of nations, dealt with properly by the United Nations, as we did in Bosnia and Kosovo and Namibia and East Timor and in other parts of the world?

So far, the White House, with all of its evasion and explanation, has been a house of mirrors where nothing is what it seems and almost everything is other than what the President promised. But Americans are also looking to us in the Congress for leadership.

The President has talked a lot about sacrifice in recent weeks. In an address from the White House, he said of Iraq, ''This will take time and require sacrifice.'' In his weekly radio talk, he warned that ''This campaign requires sacrifice.'' Even in his State of the Union Address, the President issued a call for sacrifice saying: ''We will not deny, we will not ignore, we will not pass along our problems to other Congresses, other presidents, and other generations.'' But that is exactly what we are doing if we leave this $87 billion in its current form.

Also, there can be no doubt that the President has demanded that most of this sacrifice will come from the men and women in uniform. More than 300 troops have now already given their lives in Iraq. The Army is stretched too thin for its duties in Iraq. And troops who were promised that they would be home long ago remain in Iraq.

The President has called on the National Guard and Reserve at historic rates and put more than 200,000 guardsmen and reservists on active duty. The Pentagon has changed the rules so that a Guard unit's activation date does not start until the troops arrive in Iraq. That is a bookkeeping sleight of hand that keeps thousands of forces deployed even longer than they expected or were promised. And, incredibly, the President's call for sacrifice even included billing wounded troops for the cost of hospital meals. Fortunately, the Congress rectified that problem in this supplemental. But it is not yet law.

Despite all we are asking of the men and women in uniform, the bill we now debate appropriates $87 billion simply by increasing the Federal deficit. It asks no sacrifice of anybody in the United States today who can afford it. This is an off-budget, deficit-spending free ride.

The amendment Senator BIDEN and I and others are offering changes that. It will pay the cost of this bill. It will pay the cost of the entire $87 billion by simply repealing—not all, which I think we ought to do—a portion of the tax cut for the wealthiest Americans.

The Biden-Kerry amendment will ask those who can afford to pay this burden to do so, and make their contribution, make their sacrifice to the effort to

win the peace. It protects the middle class. It meets our obligations in Iraq. And it will help ensure that we have the resources necessary to accomplish our goals here at home, goals such as making health care more affordable, paying for homeland security, and keeping the President's promise to leave no child behind.

We should not abandon our mission in Iraq, and we understand the downsides of doing so. But we ought to demand that whatever we spend in Iraq be paid for with shared sacrifice, not deficit dollars.

We are already shortchanging critical domestic programs to pay for unwise tax cuts for the wealthiest Americans. In addition, the Bush fiscal record and its trillions in debt demand that we follow the commonsense approach of our amendment.

Since President Bush took office, the cumulative 10-year budget surplus has declined by almost $10 trillion. We have gone from the largest budget surplus in American history to the largest deficit in American history this year. We have added nearly $1 trillion to the debt inside of a single Presidential term. On top of that, we have passed a huge tax cut during wartime for the first time in American history. And that is the height of irresponsible, reckless budgeting.

The Bush administration blames the budget crisis on the Nation's response to September 11 and on funding for domestic programs, but that is a stunning misstatement of fact.

The simple facts are that the fiscal policies supported by this administration—tax cuts already passed, tax cuts that have been proposed, significant increases in defense spending and money for Iraq, and additional interest on the debt—have caused more than half of this turnaround. As the debt piles up, the President claims that he bears no responsibility when he, in fact, and his policies are the primary cause.

Senator BIDEN and I are making a commonsense proposal. Rather than borrowing an additional $87 billion, we want to scale back a small portion of the tax cuts for the wealthiest Americans, for those making over $300,000 a year. The average income of those in that top tax bracket is $1 million a year. These Americans are not exactly hurting. Their real average after-tax income rose a remarkable 200 percent in the 1980s and 1990s, and their overall share of pretax income has nearly doubled over 20 years. That cannot be said of any other income group in the United States.

In the year 2000, the 2.8 million people who made up the top 1 percent of the population received more total after-tax income than did 110 million Americans who make up the bottom 40 percent. Think about that: The top 1 percent of Americans earned more income than the bottom 40 percent, and that is after taxes.

Mr. REID. Madam President, under the time allocated, we have some extra time. So on behalf of Senator BIDEN, I yield 2 minutes to the Senator from Massachusetts.

Mr. KERRY. It is simply not unfair to ask those earning the most, those who are the most fortunate, those who are the most talented, the hard-working Americans who are earning more than $300,000, not as a matter of any kind of targeting except for the fact they are the best off and have the greatest ability, to make this sacrifice without a negative impact on their lifestyle, on their choices, on their quality of life. This is a time for sacrifice. I believe it is appropriate for us to ask that in order to promote a free Iraq, in order to reduce the burden being placed on future generations of Americans, in order to reduce the burden placed on the middle class today, in order to have the least negative impact on our economy, the least negative impact on long-term interest rates, the least crowding out of borrowing by adding to the debt and crowding out private borrowing in the marketplace by public borrowing, the least negative impact on perceptions, the best way for America to deal with this problem of misinformation, this problem of promises broken is to turn to those the President seeks most to give the biggest breaks to most frequently and ask them to share the burden.

I hope my colleagues will do that, recognizing the sacrifice being made on a daily basis by 130,000 of our troops who live and die by what we do in the Senate and the House, in the Congress in Washington.

I thank the Chair.

The PRESIDING OFFICER (Mr. BUNNING). The Senator from Delaware.

Mr. BIDEN. Mr. President, I yield myself 2 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BIDEN. I meant to state earlier—and I know my colleague from California is about to speak—that the Senator from California was way ahead of me and way ahead of my friend from Massachusetts in one very important respect. She and Senator CHAFEE, long before I made this proposal, suggested that, quite frankly, the entire top 1 percent of the tax break be rolled back, not just $87 billion, to pay for this and for other things to reduce the deficit. It was my intention to speak to that. Then I entered into what was an exchange with my friend from Utah, and I did not. I want to make clear what a central role she and Senator CHAFEE have played in making the fundamental point that all Americans should participate in making sure we win the peace and not saddle the next generation. That is unconscionable.

I yield the floor and thank my colleague.

The PRESIDING OFFICER. The Senator from California.

Mrs. FEINSTEIN. Mr. President, I thank the Senator from Delaware. I appreciate those words. Both Senator CHAFEE and I felt very strongly that this rate rollback that affects the top 1 percent is really the right thing to do at this time.

I particularly compliment the Senator from Delaware on the way he worked out this bill, because essentially this is a rollback of the accelerated rate cut that the top 1 percent received in May 2003. It rolls back the acceleration just enough to pay the $87 billion cost of this supplemental. So it becomes a very reasonable way to pay for a part of this war which, to date, including this supplemental, will cost the American people more than $150 billion.

This is a big day in the Senate. As many of us have pointed out this week at the Appropriations Committee hearing on the supplemental, there are questions in the $21 billion reconstruction portion of the supplemental request. Senator BYRD has twice tried to divide the package—once in the Appropriations Committee, once here on the floor. We have not been successful in being able to do that.

At the same time, we also recognize the seriousness of the need that the Iraqi people and their transportation and water infrastructure face after decades of neglect. We certainly recognize the needs that our men and women have in Iraq.

The fact is, we don't have the money to pay for improvements in our own infrastructure. Owing to a lack of money, just a few hours ago I decided against offering an amendment to this supplemental that would have invested substantial moneys in our domestic infrastructure, a plan that would have enhanced the safety, security, and efficiency of our highway, transit, aviation, rail, port, environmental, and public buildings infrastructure.

The reality is that there is no money to fund necessary improvements here at home. The reality is, those of us on this side of the aisle have become deficit hawks, whereas a few years ago it was the other side of the aisle. So today we have greatly enhanced spending for preparedness, for homeland security, and for the military.

How is it we can be expected to approve this supplemental without asking the most obvious question: How are we going to pay for it?

I have joined with Senators BIDEN, KERRY, CORZINE, and others in supporting this legislation because it will provide the necessary financial footing to appropriately execute our obligations in Iraq and Afghanistan as contained in this supplemental. In 1998, following nearly 30 years of deficits and a seventeenfold increase in the Federal debt, from $365.8 billion to $6.4 trillion, bipartisan cooperation brought the budget back into balance again. In 1998, we had the first surplus in a long time. Some of the funds which would have gone to pay interest on the debt were instead spent actually paying down the debt, and we were all delighted.

Now deficits and interest costs are growing once again. Net interest payments on Federal debt will increase sharply, from approximately $170 billion in 2003 to more than $300 billion by 2012. And we face a host of new challenges: the war on terror, the war in Iraq, the threat of North Korea. This has necessarily led to a shift in Government spending toward improving our defense and homeland security capabilities. Yet many of the challenges predating September 11 are still with us: improving education, updating infrastructure, preparing for the retirement of the baby boom generation, which will all severely strain the Social Security and Medicare trust funds.

The CBO predicts that the Federal deficit for fiscal year 2004 will top $500 billion.

We might dispute the actual amount, but let there be no doubt, it is going to happen. We are going to have the largest deficit in our history this year. A portion of every dollar we spend, from this day forward until the end of September 2004, will be borrowed money—money our children and grandchildren will have to repay.

It is no secret that if citizens wish to receive services or undertake activities as a Nation, they have the right to levy a tax upon themselves to achieve these ends. We have somehow lost this sense of obligation and we have concluded that providing for our national defense, or for the education of our children, requires no more than charging the costs to a Government credit card. This must stop.

In fact, as this supplemental request is currently structured, our children and our grandchildren will pay $3.60 for every dollar we borrow. This supplemental is not a request for $87 billion. It actually totals $313 billion if you include the interest—$313 billion. It is penny wise and pound foolish to do this the way we are doing it, by not paying for it.

The President of the United States, in January of this year at his State of the Union, said the following words, and we from both sides of the aisle rose in acclaim to these words:

> This country has many challenges. We will not deny, we will not ignore, we will not pass along our problems to other Congresses, to other Presidents, and to other generations. We will confront them with focus and clarity and courage.

Well, this is one challenge we are passing on to other Congresses and to other generations. We need not do it. This is a well thought out proposal to temporarily rollback a small portion of the accelerated tax cut for the top 1 percent—the wealthiest of all Americans.

As has been well stated, everyone who falls within this 1 percent makes more than $310,000 a year in taxable income, which typically means that they are making more than $420,000 a year in gross income.

We have more income taxpayers in California than any other State. Thirteen million out of 34 million people are income taxpayers. In California, this amendment will affect less than 250,000 families paying these taxes. These families are all in the top 1 percent they are the wealthiest Californians. Not one of them, at any time, has ever come up to me and said: Senator, we want a tax cut. But I have had several come up to me and say: I didn't realize how much money I would receive from the 2001 tax cut. And they have added that it was not really necessary to do it.

We now have an opportunity, by scaling back a small portion of the accelerated cut associated with the May 2003 tax package, to pay for this $87 billion supplemental. It makes good sense. Think of what it saves for the future in terms of interest costs.

So what we are proposing generates $87 billion. It is a first step toward putting our fiscal house in order. It pays for the President's supplemental spending request. It doesn't revoke the 2001 reduction in the top income tax rate, nor would it affect any other element of the 2001 tax package. It would merely temporarily raise the marginal income tax rate of the richest in our society. These people could take pride in knowing that this supplemental would not create debt that would be passed on to their grandchildren, to your grandchildren, or to my grandchildren.

I thank the Chair and yield the floor.

The PRESIDING OFFICER (Mr. GRAHAM of South Carolina). The Senator from Kentucky is recognized.

Mr. BUNNING. Mr. President, I rise to raise a few points on the war on terror and offer my support for the President's supplemental request.

First, I am compelled to address the latest round of attacks against the President's request to fund our Armed Forces and rebuilding efforts in both Iraq and Afghanistan.

We are at war. We may not have tens of thousands of soldiers storming the beaches of Normandy. There are no forces with tanks positioned against a potential Soviet advance into Europe.

But let there be no misunderstanding. The war against terror is every bit as important as our fight against fascism in World War II. Or our struggle against the spread of communism during the cold war.

I have full confidence that Kentuckians and the American people realize this. But sometimes I wonder if some of my colleagues do, because appeasement in this war is not an option.

Over the past decade, we have seen the bombing of the World Trade Center in 1993, 19 American soldiers dead in the bombing of the Kohbar Towers, and two U.S. Embassies in Africa blown up in 1996, and the bombing of the USS *Cole* off the coast of Yemen in 2000.

And then, instead of facing the threat of Islamic radicalism, we virtually looked the other way, and sent American forces as peacekeepers elsewhere into places like Haiti, Bosnia, and Kosovo.

We still have thousands of American peacekeepers in Bosnia and Kosovo. And these roles should be played by European forces who refuse to get serious about cleaning up their own backyard.

During the 1990s, the Western world was riding high as the cold war ended. Millions of people around the world found their first taste of freedom. Anti-American rhetoric was a mere fraction of what it is today. The global economy was humming along quite nicely.

However, some in the world digressed as we progressed. The Taliban came to power in Afghanistan with its brutal regime over the Afghan people. Afghan girls were kept out of school.

The regime executed political and religious dissidents. And al-Qaida established training camps freely under the Taliban government.

Saddam Hussein never accounted for his weapons of mass destruction programs. He kicked out the UN weapons inspectors. He defied UN resolutions. He made payments to families of suicide bombers. Mass graves were filled with bodies. He was a destabilizing threat.

And we let our guard down.

We all know what happened next—9/11. And that day changed everything. President Bush and Members of Congress from both parties vowed never again to let our guard down. We vowed to protect the American people at all costs. And the war on terror began.

Difficult times require difficult decisions, but supporting this bill shouldn't be a difficult decision.

Let's show our resolve with our commitment to finish this war on terror. Passing this supplemental will help get us closer.

We cannot pull back out of Iraq now, and should a vote come up in the Senate to pull our support out of Iraq, it would fail overwhelmingly.

Contrary to what opponents say, the war in Iraq is neither a ''fraud,'' a ''quagmire,'' nor a ''miserable failure.''

This would suggest that our troops sent to liberate Iraq and fight terrorism have died in vain. Nothing could be further from the truth.

From watching the news, one would think the Iraqis want us out of their country. But an overwhelming majority of Iraqis support our involvement there. Our freedom is contagious and we helped liberate them.

Much progress has been made in relatively little time. American troops stayed in Germany for 4 years and Japan for 7. We are still in Bosnia and Kosovo. We can't expect democracy overnight.

Saddam invested in palaces and terror and not his economic infrastructure. Many Iraqis had to wait until Saddam was gone to find their loved ones in one of his mass graves.

It is now time to ensure that the days of mass graves in Iraq ends.

Our military forces deserve quick Congressional action on this bill.

I have been following the 101st Airborne in Iraq. They are based at Fort

Campbell, KY. Just this week, the commanding general of the 101st, General Petraeus, told me that over in Iraq ''money is ammunition. It's the key to all we are doing.''

The 101st is doing some great work in northern Iraq. Besides killing Saddam's two sons and accepting the surrender of Saddam's Defense Minister, the 101st has worked on over 3,200 projects in the rebuilding of Iraq. These range from repairing schools to repairing oil refineries. They are doing truly remarkable work along with all our forces.

Some in Congress believe we should make the rebuilding funds a loan and not a grant. I oppose this approach.

While Iraq certainly has the resources to become a wealthy country, its revenue from oil should be used to invest in its own future, not to pay off old debts incurred under Saddam or be burdened with the debts of a loan as it tries to transition to a free economy.

And besides, there is no established Iraq government to transfer a loan to.

I find great irony in the arguments of some who oppose the war. Many argued this war was all about the President's desire for oil.

Now many of these same people say we should use Iraqi oil to repay our Government. And President Bush is leading the charge on allowing Iraqis to keep their oil revenues for themselves.

Planning for an Iraqi oil fund is now in the works. It will give Iraqis a stake in the future of their country for the first time. Funds would go to public goods, such as national defense, education, and infrastructure.

This is the type of approach Iraq needs. We need to give the Iraqi people a hand up and not keep their heads down with debt.

If we don't act swiftly on this bill and terrorism prevails in this war, then we risk having to fight this war on America's turf. And that is why it is so vital to defeat the enemy on its turf as opposed to allowing them to regroup and hit us at home as they did on 9/11.

I don't like getting casualty notifications on soldiers, especially soldiers in my State, and I don't like it for anybody's state. No Senator likes seeing them. It is difficult.

We all feel for the families and friends of the brave soldiers who have died in Iraq and Afghanistan. I know what it is like for those with loved ones still there. My wife and I felt the same way when our son Bill served in Operation Desert Storm and later in Afghanistan.

But we must remember that our cause is just and that we are on the right side of history.

We must remember that the war on terror may continue for some time. I am going to repeat that because I want the American people to understand that the war on terror may continue for some time. I acknowledge that this is a difficult point for many Americans to grasp. Indeed, it is difficult for many of us.

This is why it is time for us to move swiftly on this bill to protect our troops and help rebuild both countries. This bill is an investment in not just Iraq and Afghanistan, but it is an investment in our security, freedom, and future.

I thank the Chair and I yield the floor.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, I wish to take a few moments to speak in favor of the Biden amendment that is before the Senate, which offsets the extraordinary expenses—$87 billion—we are being asked to consider in this supplemental appropriations act.

Before I get into that discussion, however, it is probably useful for all of us to, once again, realize what $87 billion really is. It is very difficult to get our hands around such a sizable number. It is only when we look at it in comparison to other important federal programs, to other key economic indicators, that we can really develop a better understanding of how much money this really is.

Mr. President, $87 billion is more than the combined budget deficits of all the 50 States in 2004. Even in the greatest fiscal crisis since the Great Depression, the deficits of all 50 states were less than this sum.

Eighty-seven billion is 87 times what the Federal Government usually spends annually on afterschool programs. That is right, what we usually spend, because this year the Administration proposes cutting that by nearly $400 billion.

We have fought to try and get it back to just $1 billion for the afterschool programs that are so essential to assisting children develop the academic tools, personal confidence, and social skills necessary for personal success and accomplishment in this country. Yet still this Administration wants to slash this funding.

Again, this $87 billion is 87 times what we spend nationwide on afterschool programs.

It is 2 years' worth of unemployment benefits for the millions of people who have lost their jobs on this Administration's watch. Every couple of months, we have to fight tooth and nail to extend these temporary benefits for Americans who cannot find work. And its always a fight.

These are not unmotivated citizens looking for a check they are hard-working Americans who can't find a job in this slack economy. If we help get them through this extraordinarily difficult time, they'll be back contributing to the unemployment insurance system in a very short time period.

This $87 billion is enough to pay each of the 3.3 million people who have lost their jobs in the past 3 years more than $26,000.

It is seven times what the President proposed to spend on education for low-income schools. Make no mistake about it: This $87 billion is seven times the amount that this institution, the House of Representatives, and the President are allocating for the low-income schools in this country. It is seven times the amount we are spending for the education of low-income children in this country.

It is nine times what this Federal Government spends each year on special education for those several million children, close to about 4 million, who used to be kept in closets or kept away from the public school system. We don't do that anymore, we don't relegate Americans to lives of depravation, neglect, and isolation. For more than 25 years, we have made steady progress, with section 504 of the Education Act and then eventually the special education programs, the IDEA, some 25 years ago. We have made remarkable progress.

What we are now looking now is that so many of these children graduate from high school, go on to college, and enter the workforce. They have a sense of value of their own self worth, a sense of dignity, and they now contribute to the productivity of this nation. And what a difference it makes to their parents, and their communities, and their country. Yet in one stroke of the pen, we are about to send nine as much money to Iraq as we invest in special education each year.

This $87 billion is also eight times what the Government spends each year on the Pell grants to provide middle- and low-income students the opportunity to go to college. The average income of families needing this assistance is $15,200. And there are more than 4,800,000 young people nationwide relying on this badly needed grant help.

We began the Pell Grant program at a time when we as a nation to our young people that if they have ability and they can gain entrance into the colleges where they are applying, we will help devise a package of grants, loans, and work study programs in conjunction with their own summer employment and contributions from their family, so that they can achieve their highest aspirations.

That was an incredibly important choice for the economic and social well-being of this country. It is important in terms of ensuring that we are going to have well-qualified people in the military. It is important in terms of our institutions and democracy.

Yet this $87 billion is eight times what we are allocating for middle-income and low-income families to send their children to school. Do my colleagues understand that? It is eight times that amount, and we had to battle this year, a fight which we lost, to bring the Pell grants up to respond to the increase in tuitions that are taking place across this country. We wanted $2.2 billion, but we lost that $2.2 billion in the Senate. This Senate didn't have the money to help more families send their kids to college this year, and now we know why.

This $87 billion is eight times the total Pell grants. That is what we are

talking about. It is larger than the total economy of 166 nations. So this is a major allocation of resources that is going to bind our hands for years to come.

What does the Biden amendment do? The Biden amendment says we are going to pay for this. We are not just going to allocate these resources and add it to the debt of this country, which means our children and our grandchildren are going to have to pay this some time in the future.

We passed a very generous tax reduction program for the top 1 percent of the taxpayers in this country. Now listen to this: Between 2003 and 2010, the top 1 percent of the taxpayers, which have an average income in excess of $1 million, are going to get $690 billion in tax relief. Do we understand that?

With the tax reductions that this Congress has passed over the period of the last 2 years, the top 1 percent is going to get $690 billion. Those are individuals who are making $1 million or more. That is going to be their savings over the next 7 years, $690 billion. All the Biden amendment says is rather than $690, let's make it $600 billion, in order to make a down payment on paying for the war.

Shared sacrifice, now that is a pretty good American idea. Abraham Lincoln believed in it when he call for an increase in the tax for the wealthiest individuals at the time of the Civil War. We did exactly the same thing at the time of the Spanish-American War. Shared sacrifices across the board, by those who had the highest income. We did it in World War I. We did it in World War II. Why are we not doing it with this?

That is all this amendment is really about, shared sacrifice. To the wealthiest 1 percent of individuals, we are saying when we have American servicemen who are risking their lives every day families being disrupted in terms of the National Guard and the Reserves—you can give up some portion of your $690 billion tax cut. I met with many from Massachusetts' servicemen who have come back from Iraq and Afghanistan to find their jobs in jeopardy gone because of the state of the economy. Families are separated for a much longer time than they ever expected.

In our State, there are 11 families who have lost a loved one and scores of families with grievously wounded relatives and friends. Why can we not say that we are going to have some shared sacrifice? Instead of the $690 billion, we will make it just under $600 billion. That is what this amendment is about.

Finally, it seems to me a powerful enough argument, but listen, when we enacted this tax cut, the administration officials, like Secretary Rumsfeld, were saying, ''I do not believe the United States has the responsibility for reconstruction.'' That was at the time we were passing the tax cut.

We enacted this tax cut when the USAID Administrator Natsios was telling the American people the total U.S. portion of construction costs would be $1.7 billion and there are no plans for further on funding after this.

This is $87 billion on top of the $78 billion that we have already put up to fund this effort in Iraq. What happened to $1.7 billion? We enacted this tax cut when Deputy Secretary of Defense Paul Wolfowitz was informing the Congress, that we are ''dealing with a country that can really finance its own reconstruction and relatively soon.'' Do not worry about it the cost was what we heard.

As a result of the administration's failure to plan for the true costs of the Iraq operation and its failure to obtain substantial international support, we are now faced with a staggering reconstruction of $20 billion for Iraq which may be the only first installment. This is only the first installment.

Before the Armed Services Committee, Ambassador Bremer said he expects to be back again. When is it going to end? Ambassador Bremer is now suggesting the total reconstruction costs may ultimately reach $60 billion. Those are the World Bank estimates. Because of the administration's go-it-alone on Iraq, the costs of that mistake have climbed to over $120 billion.

Clearly, the circumstances have changed. The administration has grossly underestimated the costs now coming due.

President Bush, Secretary Rumsfeld, and Deputy Secretary Wolfowitz wanted to go to war in the worst way, and they did.

Now the bill is coming due. The Biden amendment is the right way for Congress and the country to pay the bill, and I urge my colleagues to approve this amendment.

The PRESIDING OFFICER (Mr. BUNNING). The Senator from Kansas.

Mr. BROWNBACK. Mr. President, I rise to address the Biden amendment and make comments regarding it. I rise in opposition to that amendment and I wanted to indicate why.

First, I want to indicate how we got to the point we are today. There were a number of people who came forward to say this is a huge bill—and it is. This is too much. I think we should examine that issue. I hope nobody says we should not be paying, because we have started down this road sometime back and it was the Congress that started down this road, not the administration. It was the Congress that started down this road. I think we now need to see this on through or we could leave the situation that we in the Congress started in a worse position than it was when we got into this in the first place.

This is what I want to point out. Congress passed the Iraq Liberation Act in 1998. This was the vote in the House of Representatives: 360 to 38. The Senate, by unanimous consent, passed this bill, the Iraq Liberation Act.

What did it call for? It called for regime change in Iraq. This was signed into law by President Clinton. We allocated, authorized, and appropriated $100 million to spend on this effort of regime change in Iraq. That was to get Saddam Hussein out of Iraq.

He was supporting terrorists, he had used weapons of mass destruction, he wreaked terrorism upon his own people, and he was costing us billions of dollars a year in containment because we had soldiers and airmen stationed in Saudi Arabia, and we were doing regular bombings into Iraq. We were conducting no-fly zones in the north and in the south. We built airbases in Saudi Arabia to be able to move this on forward.

This was an untenable situation. It was bad for the Iraqi people, bad for us, and bad for the region. All the countries in the region had some difficulty or problem, either being attacked, as Kuwait was, launched into, as Saudi Arabia was, threatened, as Jordan had been, at war as Iran. These are the countries, other than Turkey and Syria, that surround Iraq. Most of the countries in the region were saying something needed to be done, but they weren't willing to step forward unless the United States was serious. This was part of our statement that we were serious.

President Bush took this forward after 9/11 when the whole world changed for the United States. We decided after 9/11 that we would no longer wait for the terrorists to gather up steam and build up forces against us and then launch. We were going to go to the terrorists and disrupt them first, rather than wait until they came to our soil so tragically. Thus ensued the war on terrorism in Afghanistan and Iraq.

In Iraq, we had a country that had in the past used chemical weapons against its own people and against the Iranians. That is the fact and that is what we knew and this is where it started, and it started with the Congress.

Now to the issue today of the supplemental and how do we pay for it. I think it would be a terrible mistake for us at this time to raise taxes on the American people, just at the time when we are starting to get the economy recovered and moving again.

Finally, this last quarter we had our best quarter in 2 years, with 3-percent GDP growth. The Gross Domestic Product grew by 3 percent this last quarter. We are finally getting some growth and that growth has to occur and has to build up for us to create jobs. There is a lag between that growth and creating jobs. If we go right now and say to the American people that we are going to raise taxes on you at this point in time, you are going to threaten the very early stages of growth and the creation of jobs which is starting to take place. That is the wrong message to send.

The thing we need to do is keep the growth occurring in this country. You do that by low interest rates and by

lowering taxes. Those are the two tools that are being displayed and used now, and they are working to start the economic recovery. If you grow taxes at this point in time, you send the wrong message.

We do have a growing Federal deficit. What should we be doing to address that? I think we should address that issue of the Federal deficit. It is important. It is an issue. It is something that needs to be addressed.

I want to put forward an idea that we have 28 cosponsors on now. I want to put it forward in the context of how we balanced the budget in the past. We were able to balance the budget for several years in a row. It is the Congress that appropriates the money and allocates the spending. It is the Congress that gets the budget either in surplus or deficit, and it was the Congress that balanced the budget previously.

How did we do it? There were two things. There was a strong growth in the overall economy producing receipts coming into the Federal Government and there was a slowing of the growth in Federal spending. We restrained the growth of Federal spending so the growth in the economy and the receipts it produced were more than the growth in the spending of the Federal Government, and we were able to get our way to a position where we had a balanced budget for several years in a row, indeed pushing forward strong surpluses.

That is the way we will balance the budget again. Getting the economy growing and restraining the growth in Federal spending.

How do we restrain the growth in Federal spending? The Commission on Accounting and Review of Federal Agencies—CARFA, for short. The model for it is the BRAC procedure. With the BRAC procedure, we looked at the totality of the military bases we had. We said we had too many military bases; we should cut back those military bases, consolidate them, and use whatever we can save if we can save among the bases we keep. It is called the BRAC process.

How does that work? We had a commission. The commission met, they discussed it, and said we should eliminate these 50 bases. Then a bill was introduced in the Congress with no amendments, and you gave each House one vote up or down, whether they agree or disagree. By that means we were able to eliminate and consolidate bases.

I say let's do the same thing with domestic discretionary programs. By that I am saying not for the military; we already have a procedure there. Not for entitlement programs. Let's move forward that way, and that is a way we can address this issue. That is how we will actually get back to a balanced budget, not by raising taxes.

As to Iraqi spending, I want to discuss that. I think we should review and reduce some of the spending in this area that has been proposed. I have gone through in some detail, not the full proposal yet but most of it. I think there are areas we should not be paying for. Memorials to human rights abuses—clearly those are things that would be good to do. But should we, the American people, the American taxpayer, be paying for that? Is that central to redeveloping Iraq? I don't think it is, particularly at this time.

Should we be paying $50,000 per garbage truck? I don't think so, not in a part of the world that maybe it would be good to have, but there is probably garbage being collected in old pickup trucks. That is the way we used to do it in my hometown many years ago. There is nothing wrong with that, maybe, at the current stage of development. Maybe later you would use something better. But I think we should take some of these areas and say, let's pull those down and pull those out and let's reallocate some into more policing, which is critically important in Iraq, for us to get our troops garrisoned and less subject to exposure. Put it in the Iraq development bank, where we can see the Iraqi people growing their own money and we will be saving some of the money for our deficit purposes here, working to reduce that. I will be working with a group of people to put such a proposal together and put it in front of my colleagues.

I think that is an important part the job of this body, to review what the President has put forward and see where we agree and let's pass that and other areas where we would change it.

I do not think it is an option for us not to pass the supplemental. We need the supplemental for the troops. We need the supplemental to develop Iraq. It is not an option for us to fail in Iraq. We must succeed. Indeed, Iraq and its success is central to us bringing forward a reduction in the swamp area where terrorism has bred and where it has stewed and where it has grown, in an area we have seen terrorism coming forth and attacking us. This is an area we have to go out and change. We change it by bringing forth our ideas and our models of democracy, of an open society, and of a free economy. This Iraq is going to be an area where we will have to concentrate and focus, deliver that, and hopefully that will affect much of the rest of the region. There is some indication that is already happening.

So you drain the swamp away, and drain it away with our set of ideas.

Failure in Iraq is not an option. We must succeed in Iraq by moving forward with our model on the war on terrorism, which is we take the war there rather than letting them gather steam and come at us and kill our people here.

I think there are legitimate ways to address this issue. I think we ought to look at the issues of loans versus total grants. This is a large-scale, oil-based country that wants those production wells going again. I think there is going to be oil produced and a substantial amount of income.

I think we ought to look at the overall proposal. There are places where we should adjust. But overall, we are going to need to pass this supplemental. For us to raise taxes at a time when we are just getting the economy going would be the wrong way for us to go as a government, as a society, and for this country.

We have to allow this growth to continue taking place. The key here would be instead of reducing our overall spending to look for places we can save within this overall spending bill.

We are going to have a spirited debate. As we go out for a week and do townhall meetings across the country—and I will be doing that in my State—I look forward to gathering a lot of input from individuals. I think that will be helpful for us as we move forward.

But I don't want us to send an improper signal. Failure in Iraq is not an option. We cannot fail. We need to do this supplemental, but I think we can make some changes.

I yield the floor.

The PRESIDING OFFICER. The Senator from Wisconsin.

Mr. KOHL. I thank the Chair.

I rise today to voice my support for the amendment offered by the Senator from Delaware. His amendment allows us to fully offset the $87 billion cost of the supplemental before us by increasing slightly the top tax rate in the years 2005 to 2010. This top tax rate—which is paid only by the wealthiest 1 percent of taxpayers—was cut dramatically in the two tax cut bills passed since President Bush took office.

There is broad consensus for the $67 billion in this request for military and defense spending. And even those of us who voted yesterday to cut $15 billion in reconstruction funding did so to make the point that we have lingering questions about the nature of this funding and who will pay for it. However, our support for funding our obligations in Iraq doesn't mean that we support adding to the exploding deficits our Nation is now facing. The Biden amendment does not question whether we should fund the war—it addresses how we finance our necessary obligations.

The President has proposed paying for the entire $87 billion with debt. In a time when our deficit is projected to top half a trillion dollars a year, this choice is unsupportable.

Our ballooning government debt sucks capital from a private sector struggling to recover lost manufacturing jobs. The debt places upward pressure on interest rates, wreaking havoc on the family budgets of those carrying home loans or consumer debt. The billions we pay in debt service each year is billions that does not go to our schools, our roads, or our growing homeland security needs. And a crippling debt is a terrible legacy for future generations—generations that had no say in our current policies in Iraq.

Financing this war with debt is a costly and unwise choice. The Biden

amendment offers another way to pay for what we have an obligation to do.

On September 7, the President said in a speech to the Nation that the war and reconstruction of Iraq would require ''time and sacrifice.'' For months, we have asked the young men and women of the Armed Forces to make the ultimate sacrifice: to fight—and perhaps die—for this country. Senator BIDEN's amendment asks another group—the wealthiest 1 percent of all Americans to also sacrifice—to accept a small increase in a tax rate that was greatly decreased by the Bush tax cuts.

The Senator's amendment offsets the cost of the President's request by asking the top 1 percent of taxpayers, those in the 35 percent bracket, to forego approximately $90 billion of the $690 billion in tax cuts they were granted in the two tax bills we have passed since President Bush took office. A taxpayer in the top 1 percent has an average income of $1 million a year. Asking for some financial sacrifice from these taxpayers seems the least onerous of the options for financing this war.

Whatever we decide to do with this spending request, we must pay for it now. Offsetting the cost of this supplemental is the right thing to do. It asks those who have benefited the most from our thriving economy to help keep that economy healthy by reducing our growing debt burden. It relieves future generations of the staggering bill for a policy they had no part in setting. And it sends a signal to our Armed Forces that, when the President calls for sacrifice, he is not only calling on them.

I urge my colleagues to support the Biden amendment, and I yield the floor.

The PRESIDING OFFICER. The Senator from New York.

Mrs. CLINTON. Mr. President, I commend my friend and colleague from Wisconsin for a very straightforward and profoundly important summary of the reasons why we should in a bipartisan manner support the Biden amendment. The Senator from Wisconsin is an expert on the economy, on creating jobs, and on building businesses as well as public policy. He has the understanding that we have to look beyond the horizon if we are to be leaders to build a better America and a safer world for our children. I thank the Senator from Wisconsin.

I, too, urge all of my colleagues on both sides of the aisle to support the Biden amendment. This is an issue of great importance we are debating. It is not only essential that we support our troops—which we all do and feel strongly about—in a fiscally responsible manner so these young men and women who are fighting and dying in Iraq will be able to return to a country with a growing economy which is creating jobs and a responsible government.

At the end of the day, as the Senator from Wisconsin just said, we are funding this war from our children's inheritance. It is wrong. I don't care what else you could say about it. That is fundamentally wrong. We have a chance to act responsibly. Unfortunately, the words ''fiscal responsibility'' and ''fiscal discipline'' apparently are not found in the current administration's dictionary. There is nothing responsible or fair about the decisions we are being asked to make.

This administration hasn't really asked for sacrifice from anybody. But there are people who are sacrificing. First and foremost, our men and women in uniform, our active duty, our Reserve, our Guard, people who have now been deployed in Iraq or Afghanistan in our war against terror, people who have left their families and have been uprooted from their jobs, they are all sacrificing. And I am grateful and proud of the work and services they provide.

But this President's budget also asks other Americans to sacrifice. It asks children and afterschool programs to sacrifice. It asks people who need job training and additional skills to be employable in this jobless economy to sacrifice. It asks people who need help with their heating and cooling bills to sacrifice. It asks those who need child care services to sacrifice. It asks so many Americans to sacrifice. Yet it does nothing to remove the burden from those people or our children.

Amazingly enough, those of us who can afford to sacrifice for our national and international goals are not asked to sacrifice at all. In fact, it is just the opposite. We are given more and more and more tax cuts.

What is the administration's policy except to further burden hard-working, middle-class Americans and future generations and not do anything to try to in a fiscally responsible way address our needs?

Think about it. Just a few years ago we were in the midst of the longest string of budget surpluses since the 1920s. We were paying down our debt, we had historically low numbers of unemployed people, and we lifted millions of people out of poverty. President Bush said just 2 years ago the country would be virtually debt free by 2008. He said there would only be $36 billion of remaining debt.

As we have seen in so many instances, the rhetoric does not match the reality. Today it is projected that our publicly held debt—and some may not want to hear, but the fact is by 2008 it will reach $6.2 trillion. We have done a tremendous reversal. Who will pay for it? The young people in this gallery who watch the proceedings in the Senate. They are the ones who will get the due bill for our profligacy, our refusal to act responsibly. The administration is denying the absolute reality that we are not paying as we go for a commitment on which we have to follow through.

Here we are with a request for $87 billion. I was pleased to hear my colleague from Kansas on the other side of the aisle say they join in looking at some of the specifics because some of the specifics are outrageous. We now know from people coming back from Iraq that a lot of what the administration says they want to spend money on we can buy more cheaply than the no-bid contracts the administration favors with their friends. I was delighted to hear the Senator from Kansas say let's look at the specifics. But that still does not get us where we need to go in paying for this.

There will be a big debate about how to pay for this. We can start by passing the Biden amendment, by being responsible. I also add, this is good for the economy. All this talk about the increase in the GDP on a monthly basis—look at the numbers carefully. A lot of it is driven by deficit spending and spending in Iraq.

Nobody is arguing that is not a good thing that we are having to do what we said we would do and following on, but be honest and look at the numbers below the surface. As the Senator from Wisconsin said correctly, we are going to stall this economy dead in its tracks if it ever gets off the dime, if it ever begins to create jobs, because we cannot sustain private capital when we have so many demands growing from the Government. Furthermore, we are becoming even more dependent on foreign currencies, on foreign investors. I don't think that is good for our long-time security either.

Instead of just pushing our country deeper in debt, let's think about our children, think about those young men and women serving this very moment in Iraq, and make sure we pay by asking those in the upper 1 percent of the income level in this country to do our fair share to make a sacrifice. It is a pittance when you think about it. What are we sacrificing? Instead of $690 billion in tax cuts, we give $600 billion in tax cuts. Do the right thing. It is good for our commitment in Iraq, good for our economy, and the very fairest thing we can do for our children.

The PRESIDING OFFICER. The Senator from Delaware.

Mr. CARPER. Mr. President, I ask unanimous consent to be added as a cosponsor to the Biden amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CARPER. Mr. President, I follow up on the comments of the Senator from New York with respect to sacrifice. Our State is a small State. We only have about 800,000 people. We have reservists who serve in all the branches of our military. We have the Delaware National Guard unit. When I was Governor, I was privileged to be their commander in chief. I know many of them personally, as well as their families.

When guard and reservists are called to be deployed to active duty, usually our Governor is there to send them off and tries to be there to receive them when they come home. Similarly, when it is a unit of another branch of the

service—Army, Navy, Air Force, Marines—we like to be there to welcome them home, too.

I will mention two units, one Marine Reserve unit, the second a unit of the Delaware National Guard, folks who fly and maintain the C–130 cargo aircraft, part of the air bridge between this country and other parts around the world.

About 2 weeks ago, I was invited to be part of a welcome home ceremony for a number of Marine reservists. They had been called to active duty. They served in Iraq. They were able to come home to their families. They came home largely to their spouses—mostly to wives—they came home to their children, came home to brothers and sisters, moms and dads in many cases, they came home to their neighbors, and they came home to their jobs. I don't think it is overstating it to say they are thrilled to be home—proud of their service, thrilled to be home.

I had another unit in the Delaware National Air Guard 166. The people who fly and maintain the C–130 cargo aircraft were activated earlier this year and spent 4 months on active duty and then were released to come home to a great homecoming ceremony, a lot of joy. Then they were reactivated roughly a month ago and headed back on the other side of the world. I am not sure when they are coming home.

They missed the return of their children to school, will probably not be around to take the kids out to trick or treat this year. When their families sit around and eat at the Thanksgiving table and carve up the turkey, they probably won't be there. When presents are opened around Christmastime, God only knows where they will be. Those families know what it means to sacrifice, not just the ones who are overseas—whether they are Delaware National Guard, any National Guard, any Reserve unit, or anyone on active duty.

It is one thing to ask the sacrifice of those who serve. As one who once served, that is your job description. You are expected to be prepared to go and serve when needed. It is always toughest on those who stay behind because they give up their loved one, they give up someone who is helping to hold the family together in many cases; in some cases they give up a breadwinner who has gone off to earn a far lower salary. They know what sacrifice is.

What the Biden amendment says is, for those who are blessed with great financial well-being, whose income exceeds $300,000 per year adjusted gross income, maybe we can do something, too. We may not have a child, a son or a daughter; we may not have a brother or sister. And I know Senator JOHNSON has a son who I believe still serves over there, but for the most part we do not. For the most part, people with those incomes do not. But we have the ability to do something to help out in this case. I don't think it is asking too much for those who happen to make that kind of income to be willing to defer maybe $2,000 a year to help make sure that our children and our grandchildren do not inherit an even greater mountain of debt.

Let me close with one comment. Sometimes you talk to people about the amount of debt and the numbers are almost numbing. Let me leave you with this number: Today, on this day of October 2, we will make an interest payment on our national debt—imagine a credit card—an interest payment on our national debt. The interest payment is $882 million.

We can bemoan that fact and say that is terrible, why don't we do something about it, or we can, with our vote today, do something about it and make sure we do not add further to that debt.

A fellow who used to be the British Chancellor of the Exchequer had a theory of holes. That theory was as follows: When you find yourself in a hole, stop digging.

We are in a hole, and it is time to stop digging.

The PRESIDING OFFICER (Mr. ALEXANDER). The Senator from South Dakota.

Mr. JOHNSON. Mr. President, I rise in support of the Biden amendment. There is no question we will support our troops. My colleague from Delaware mentioned my own son Brooks, who has recently returned from fighting in Iraq, in Baghdad; outside of Kandahar, Afghanistan prior to that; and Kosovo and Bosnia prior to that. So I have a full appreciation, as do my colleagues on both sides of the aisle in this Chamber, that our fighting men and women deserve all the resources they need, and we will do all it takes to make sure they have those resources.

But there is the larger question of the $87 billion, particularly I think the $20.3 billion component for so-called rebuilding in Iraq, although when we say ''rebuilding,'' keep in mind that the President is not talking about rebuilding things that were damaged in the war; the President is talking about creating schools, whole new cities, whole new water and telecommunications systems that have never existed in all of Iraq's history.

But the fundamental question we have here at this moment is, How will this be paid for?

There have been essentially—until the Biden amendment—two strategies. One is that Iraq borrow the money and build it themselves. They sit atop the world's largest supply of oil, literally a mountain of gold. Granted, they do not have the technology to pump that oil quickly at this point in their history, but it is there and could be collateralized.

Second is the President's recommendation, where, rather than Iraq borrowing to pay for the $87 billion, we borrow it to pay for the $87 billion, because we do not have $87 billion either. We do not have $87 billion in cash lying around. In fact, we have gone from record budget surpluses only 2 years ago to, under the guidance of this President, an annual deficit now approaching $500 billion a year. It is a breathtaking record deficit that we face. So we do not have any surplus money to be used anywhere, including in Iraq.

The President says: Well, we do not want Iraqis to have to borrow because that might raise their debt service cost, despite the fact they have the world's largest pool of oil. Instead, let's borrow it out of our Social Security trust fund. That is the President's strategy. I think it is a terrible strategy. We have been doing too much of that as it is. To borrow still more, and drive our deficit still deeper, to put Social Security in still greater jeopardy in the outyears is, to me, not an acceptable strategy.

Senator BIDEN has suggested there is a third way. If the President simply will not accept the fact that Iraq ought to borrow this money themselves, then at least let's not borrow it out of the Social Security trust fund from the United States; let's allow those who have benefited the greatest by the growth of the United States economy—those 1 percent of Americans who earn over $300,000 a year—to have a temporary freeze in the tax reductions over the course of 5 years that would pay the $87 billion.

It troubles me that this President and some of our colleagues—who are constantly lecturing us about how there is not enough money for our own schools, for our own highways, for our own health care, for our own veterans, for our own job creation—are the very first ones to come to this body and tell us how badly we need to spend that same amount of money in Iraq, and borrow it out of the Social Security trust fund while we are at it. It is not acceptable to me.

I have to wonder about those kinds of priorities when we have such great unmet needs here and when, Heaven knows, we are also facing stupendous budget deficits. So it does seem to me that Senator BIDEN is correct in saying, let's not go down the borrowing route ourselves, let's pay for this, if it needs to be paid for. And, frankly, there are many components of that $20 billion piece which I am dubious about, but if we are going to pay for any of this, let's pay for it by making sure that ordinary Americans are not hit once again.

As was noted earlier, our troops and their families are making immense sacrifices, for many the ultimate sacrifice. But there are other people who are making sacrifices as well—in terms of crowded classrooms, in terms of schools that are not being repaired, in terms of technology that we cannot afford in our schools, in terms of those who have no access to health care, in terms of rural hospitals that are closing, in terms of veterans who have no access to the VA, and in terms of those who have lost their jobs and see no jobs in the near future. All of those people are sacrificing as well.

If there is going to be sacrifice, let it be by the 1 percent rather than borrowing this money.

I thank the Chair.

The PRESIDING OFFICER. The Senator's time has expired.

The Senator from Delaware.

Mr. BIDEN. Mr. President, parliamentary inquiry: How much time is available to the Senator from Delaware?

The PRESIDING OFFICER. Thirty minutes.

Mr. BIDEN. Mr. President, I yield 1 minute, if I may—I know it is out of order. Our friend from Maryland has asked for 1 minute. I would be delighted to yield that to him, and then I would ask, after that, to yield 1 minute to my friend from Florida. And then I think, in the order, Senator REED is in the queue for 5 minutes, and then the Senator from Illinois, and then the Senator from North Dakota. I ask unanimous consent that be the order.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. BIDEN. I thank the Chair.

The PRESIDING OFFICER. The Senator from Maryland.

Mr. SARBANES. Mr. President, I want to pick up on a point that the Senator from South Dakota just made, and that is the question of sacrifice. The people in this country who are making sacrifices in this war in Iraq are the working people and the men and women in our armed services.

The men and women who are losing their lives and suffering casualties come overwhelmingly from working families in America. Overwhelmingly they are the ones who are unable to meet their families' needs, and their own needs, because our national priorities have disastrously changed and the impact has fallen on particularly crucial programs: education, health care, job training—you can go right down the list.

The deficits we are running, the huge national debt that is being run up will come down on the shoulders of working families in this country.

If you want to talk about sacrifice, pass the Biden amendment.

It is time for the privileged in this country to make sacrifices, too. It is not their men and women who are in Iraq. It is not their programs that are being hit. They are not shouldering the debt.

They, too, should be making a sacrifice on behalf of this national effort.

The PRESIDING OFFICER. The Senator's time has expired.

The Senator from Florida.

Mr. NELSON of Florida. Mr. President, this Nation's fiscal policy is careening off the road into bankruptcy. And that means, if we are having to go out and borrow money—by the way, borrowing it from places such as Saudi Arabia and the Chinese—in order to pay our bills, that means we are not able to spend money going into education and health care and Social Security.

You have to get some relief somewhere. This is a good place. Stop the tax cuts that are supposed to be going into effect for the wealthiest, and let that $87 billion pay for these expenses that are incurred in Iraq.

I thank the Chair.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. REED. Mr. President, the Biden amendment is very straightforward. It says we will pay for the $87 billion by repealing the tax advantages for those who have the upper 1 percent in income in the United States.

In my view, this is not an issue of taxes or payments; this is a simple issue of responsibility. It is irresponsible for us to borrow money from Social Security, borrow money from Medicare, borrow money from education spending, borrow money from the Veterans' Administration to give to the Iraqi people. We can, in fact, pay for it. We can pay for it by supporting the Biden amendment.

My colleague from Maryland spoke about the sacrifice of these soldiers, sailors, airmen, airwomen, and marines who are over in Iraq. Just ask yourself: What happens 5 years from now when those young Americans go to the Veterans' Administration and they are told they cannot be accommodated because we do not have enough money, that we borrowed so much money that our economy is in disarray, and that our programs that support American people have been devastated?

We have a situation in which our deficits are growing out of proportion, the national debt is rising. In January of 2001, the CBO estimated that the national debt in 2008 would be $36 billion. In fact, the President at that time was talking about paying off all of our debt, and now, in August of 2003, CBO projects a debt of $6.2 trillion in 2008. Deficits are expanding dramatically. Again and again they go up and up and up. Now we are talking about a $535 billion deficit.

This has an effect. It is not free money. The effect is in many dimensions. One dimension is that ultimately it will drive up interest rates. That is not my view. That is the view of Alan Greenspan, in his words:

> There is no question that as deficits go up, contrary to what some have said, it does affect long-term interest rates. It does have a negative impact on the economy, unless attended.

This is one way we can attend to the deficit. Or the words of the CBO Director:

> To the extent that going forward we run large sustained deficits in the face of full employment, it will in fact crowd out capital accumulation and otherwise slow economic growth.

We are today, by spending and not raising the revenues to support that spending, contributing to this out-of-control deficit spiral that will affect our economy.

There is another consequence that goes to responsibility. How can we be a world leader, how can we sustain our efforts in Iraq, in Afghanistan, across the globe, if our economy becomes unraveled, as it is becoming?

Of course, there is an immediate issue. We are losing employment left and right, particularly manufacturing employment. How do we sustain manufacturing in the United States? What happens when their interest rates go up, when they have to pay more money to borrow? That is another invitation to take their work and send it overseas. What happens when their health care costs go up? And they will, unless we do more to support the Medicare system, the Medicaid system, and general health insurance throughout the United States, another pressure.

This is all irresponsible. We have huge problems. We have much to do to deal with those problems. But we can begin today and simply say, rather than giving the Iraqi people $87 billion from Social Security, from health care, from education, we can ask the top 1 percent of Americans, who have done extraordinarily well, to forgo a tax break so that we can pay for this.

It is responsible. This vote today is not about taxes. It is not about our approach to Iraq. It is not about supporting the troops. It is about whether we will be responsible today and in the future. I urge that we go forth and be responsible.

My colleague from Maryland also pointed out the sacrifice. We all know our forces are doing a magnificent job. They are truly sacrificing, and we are going to support them. But their sacrifice must be met not only with our sacrifice but with some wisdom, the ability to look ahead, the ability to see what is coming. What is coming is an economic deterioration of this country unless we can get our hands on this deficit.

This is the first step. It is a modest step, but it is a first step. What better rationale, to ask the people of America to contribute their hard-earned dollars and support our troops, support our foreign policy, support an effort to root out dangers to this country? In fact, in times of war, the American people have always responded, and other Congresses and other administrations have responded when we have asked them for increased sacrifices and increased taxes.

None of the Biden proposal will affect the middle class, the working class. It is responsible. To vote against this amendment would be irresponsible. I urge its passage.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. DURBIN. Mr. President, if you study the sweep of history in the United States and the history of the Presidency, you understand that at times of crisis the President has an opportunity to rally the American people, to summon them to a higher calling and a greater commitment than

they might otherwise reach. Time and again, each President faced with a national challenge has tried his best to do just that.

In this situation, after 9/11, President Bush came to us and summoned the American people to be unified. It was demonstrated in the Senate with a bipartisan resolution supporting our effort in the war on terrorism, an overwhelming vote supporting the President. He summoned us to humility. Many of us joined with the President at the National Cathedral in a day of prayer to recall just what had happened to so many innocent people and to once again remind ourselves of our dependence on our values and our principles and on God Himself.

He also summoned us to courage and the courage that America has to display every day in confronting the war on terrorism.

President Bush also has summoned us to sacrifice. But he has not summoned all of us to sacrifice. He has summoned the men and women in uniform to sacrifice because they literally put their lives on the line every single day in this war on terrorism, in the invasion of Iraq and in peacekeeping afterwards. He has asked these men and women to understand the oath they took to our country and to step forward proudly and defend our flag and our values. That call to sacrifice has been answered affirmatively over and over again while hundreds have been killed in Iraq and literally hundreds and perhaps thousands have been seriously injured.

When it comes to sacrifice otherwise, the President asks little or nothing of the rest of America. I believe if President Bush had come to America and said, I need a spirit of sacrifice from everyone—rich and poor alike, not just those in uniform but every single person—there would have been an overwhelmingly positive response. But no, instead of asking for sacrifice, the President said to the wealthiest in America, to those who are well off and have little discomfort in their lives: We ask nothing. In fact, we will give you something. We will give you a tax cut. We will give you money—not a sacrifice asked of the wealthy and well off but, frankly, to give them more comfort and luxury in their life. That is hardly what the President should have done in rallying America to face this crisis.

Here we stand today, facing the amendment of the Senator from Delaware, Mr. BIDEN, which asks us to look in honest terms at the $87 billion the President has asked for, for Iraq: $68 billion for the troops, another $20 billion for the reconstruction.

We know President Bush and his administration have had no plan when it comes to revitalizing the American economy. This President has lost more American jobs on his watch than any President in 70 years. He has lost more jobs than any President since Herbert Hoover in the Great Depression. Frankly, that is a stain on his performance as President and reflects the fact that all of the tax cuts he has proposed have not revitalized this economy, have not moved us forward and, in fact, have cost us jobs.

It is clear, as well, this administration had no plan when it came to rebuilding Iraq. A few months ago, some of the leaders in this administration were coming forward and telling us we would not even need to be here today to ask for $87 billion. Secretary Rumsfeld said: I don't expect that we are going to need to ask the taxpayers for money; look at all the oil revenue in Iraq. The same thing was said by Vice President CHENEY and Paul Wolfowitz. All of the men behind the strategy to attack Iraq told us over and over again it was painless, it wouldn't cost us.

We are here today knowing it will cost us. The President told us in his speech to the American people just a few weeks ago: $87 billion is the cost. This administration had no plan to deal with it and no plan to pay for it.

How will we face this? We will face this as we faced the Vietnam war, a war which was financed by deficits. Instead of cutting spending or raising taxes to pay for the cost of Iraq, we are going to see the national debt increased. We are going to see the funds available for our schools, for health care, for Social Security cut because we have decided we are not going to ask anyone to sacrifice to pay this $87 billion.

I believe we have a responsibility to stand up and do the right thing, to ask the wealthiest in America to pay their fair share, to say to them: We are not going to give you a tax break that has been promised so the money will be there to pay for this war. It is the responsible thing to do. Instead of pushing this burden on the men and women in uniform fighting today and on our children tomorrow with an increased national debt, we are going to stand for the premise that we should pay for the defense of America; we should pay for the cost of reconstruction in Iraq.

I support the Biden amendment and urge my colleagues to do the same.

The PRESIDING OFFICER. The Senator from New Jersey is recognized.

Mr. CORZINE. Mr. President, I, too, rise to stand in support of the Biden amendment. The concept of shared sacrifice is fundamental to the American life—something all of our predecessors on this floor and the people of America through history have understood. In times of war, we have understood we all have to participate.

It should be no different this time. It is clearly a time when we have not asked for our society to stand up and accept the responsibility—financial responsibility—of standing with those men and women who are sacrificing their lives for us. Instead of actually husbanding our resources so we can carry on that struggle and stand with our men and women in uniform, we are actually undermining that by putting our financial condition into real jeopardy, both now and for a long time into the future.

In guns-and-butter policy, one that is totally discredited throughout any kind of analysis, whether in the private sector or academia—and it should be here on the floor—we are now facing $535 billion budget deficits in the coming fiscal year, with budget deficits of that dimension long into the future, borrowing against the retirement security of our seniors and our Social Security trust fund, using the payroll taxes people are reportedly putting into Social Security to protect their retirement to fund tax cuts, at the same time we are actually at war to protect the American people.

It is time for us to husband our resources and make sure we don't sacrifice everything on the homefront, whether it is economic security, retirement security, homeland security; all of these issues are short of funding. We hear about it and we cut it back. We make sure we are very precise there, and then we are not willing, for those who are benefiting most in society, who have actually enjoyed the American prosperity the most, to sacrifice marginal amounts to be able to fund an initiative that is proper to protect our troops and take the responsibility for a broken economy, a broken society that, in many ways, is a responsibility we have had because we entered into this.

I think it is absolutely essential, and I think many of the people who benefit from the reduced tax rates we are talking about not going ahead and executing will benefit more because we will have a sounder economy, and we will create greater wealth in the economy, and they will welcome the idea that they are actually able to share in some of these burdens as we go forward. As a matter of fact, I know that at a personal level, from conversations I have had across this country, there is a desire to be asked to help.

It is really a major mistake, a major shortfall, on our sense of responsibility to the Nation if we don't call for making sure we provide funding for this initiative—this $87 billion the President has asked for. I stand strongly in favor of the Biden amendment. I encourage colleagues to as well. This Nation believes in shared sacrifice. We should show it by supporting this amendment.

I yield the floor.

The PRESIDING OFFICER. The Senator from North Dakota is recognized.

Mr. CONRAD. Mr. President, I want to start by putting in perspective where we are in the fiscal condition of the country as we consider this request from the President for $87 billion for Iraq.

I think it is important for us first to recognize we already face next year a record budget deficit of $535 billion. But that really understates the seriousness of the problem because, on top of that, under the President's proposal, we will also be taking $160 billion of

Social Security trust fund money to pay for other things. That gives a total operating deficit for next year approaching $700 billion.

Some have said, well, it is really relatively small as a share of our gross domestic product. That is not correct. Fairly measured, the operating deficit next year is the biggest we have had since World War II. If we look at the Social Security trust fund, if we back that out and we treat it the same way in 1983, what we see is the deficit as a percentage of GDP is the biggest it has been since World War II. This is a huge deficit, however measured.

The President has told us these deficits will be small and short term. Wrong again. They are not small; they are huge by any terms, dollar terms or GDP terms. Beyond that, they are long lasting. In fact, according to the President's own analysis, they go on and on and on, and they get worse as the baby boom generation begins to retire. Just over the next decade, we see an ocean of red ink. According to Congressional Budget Office numbers, if we just add in proposals to extend the tax cuts, to add a prescription drug benefit, and to provide AMT reform, there will be deficits of $600 billion, $700 billion, as far as the eye can see.

We have a problem of spending and of revenue. The revenue as a percentage of gross domestic product next year will be the lowest since 1950. That is a revenue crisis, as well as a spending problem. If we look at the spending side of the equation, we can see the increases in discretionary spending over the baseline have occurred overwhelmingly in just three areas: defense, homeland security, and rebuilding New York and providing airline relief. In 2003, ninety-two percent of the increased spending is in those areas. I might add those are areas that all of us, on a bipartisan basis, supported.

The President of the United States told us 2 years ago he would virtually pay off the debt. He said by 2008 there would be virtually no publicly held debt left. Now what we see is, instead of the debt being virtually eliminated, we see it skyrocketing. The gross debt of the United States, we estimate, will be $6.8 trillion by the end of this year. In 10 years, we estimate it will be approaching $15 trillion—all at the worst possible time. It is the worst possible time because the baby boom generation is going to begin retiring in 2008.

On this chart, the green bar is the Social Security trust fund, the blue bar is the Medicare trust fund, and the red bar is the cost of the tax cuts—those that have already passed and those that are proposed by the President. What this shows is, at the very time the Social Security and Medicare trust funds go cash negative—at that very time, the costs of the President's tax cuts explode, driving us deeper and deeper into deficit and debt.

You don't have to take my word for it, or the Congressional Budget Office's word for it. You can take the President's word for it. Here is the calculation from his budget of what would happen if we followed his proposals, his tax cuts, his spending. What it shows is we never get out of deficit and that the deficits explode. This is as a percentage of gross domestic product—which he prefers to refer to now to try to understate the magnitude of the problem.

Look at what his own analysis shows. It shows these are the good times, even though there are record deficits—the biggest we have ever had in dollar terms, and as a percentage of GDP since World War II. But it is going to get much worse.

The Congressional Budget Office warned us, as the New York Times reported it on September 14:

> This course prompted the Congressional Budget Office to issue an unusual warning in its forecast last month: If Congressional Republicans and the administration get their wish and extend all the tax cuts now scheduled to expire, and if they pass a limited prescription drug benefit for Medicare and keep spending at its current level, the deficit by 2013 will have built up to $6.2 trillion. Once the baby boomers begin retiring at the end of this decade, the office said, that course will lead either to drastically higher taxes, severe spending cuts or ''unsustainable levels of debt.''

Just this week, the Committee for Economic Development, major business leaders in the country, the Concord Coalition, and the Center on Budget and Policy Priorities warned of the dangers of the current fiscal course. They said:

> To get a sense of the magnitude of the deficits the nation is likely to face without a change in policies, consider that even with the full economic recovery that CBO forecasts and a decade of economic growth, balancing the budget by the end of the coming decade (i.e., in 2013) would entail such radical steps as: raising individual and corporate income taxes by 27 percent; or eliminating Medicare entirely; or cutting Social Security benefits by 60 percent; or shutting down three-fourths of the Defense Department; or cutting all expenditures, other than Social Security, Medicare, defense, homeland security, and interest payments on the debt—including expenditures for education, transportation, housing, the environment, law enforcement, national parks, research on diseases, and the rest—by 40 percent. Beyond the next decade, the tradeoffs become even more difficult.

When we look now to what the President is proposing in this $87 billion, and we look back at what we were told—remember when Larry Lindsey, the President's chief economic adviser, said it would cost $100 billion to $200 billion for our involvement in Iraq, and he was chastised by this administration? The head of the Office of Management and Budget said he was way off. He wasn't way off. He was right on. We are already at $140 billion for this Iraqi undertaking.

The administration has been wrong, wrong, wrong. They have been wrong repeatedly. They are wrong about the deficits. They said there wouldn't be any. Then they said they were going to be small. Then they said they were small as a percentage of gross domestic product. They were wrong on each count.

Then they told us: Iraq won't cost much. Here is what Ari Fleischer, the President's chief spokesman, said on February 18 of this year:

> And Iraq, unlike Afghanistan, is a rather wealthy country. Iraq has tremendous resources that belong to the Iraqi people. And so there are a variety of means that Iraq has to be able to shoulder much of the burden for their own reconstruction.

What happened? The administration told us Iraq was going to be able to pay, they were going to be able to cover much of the cost of their own reconstruction. Now that proves to be wrong as well.

This administration repeatedly told us the cost of Iraqi reconstruction could be largely borne by Iraq. Here is what the Deputy Secretary of Defense said before the House Appropriations Subcommittee on Defense in March of this year:

> The oil revenues of Iraq could bring between $50 and $100 billion over the course of the next 2 or 3 years . . . We're dealing with a country that can really finance its own reconstruction, and relatively soon.

Wrong again. And just months later they are asking for $20 billion, and that is just a downpayment. Make no mistake, they are going to be here asking for more, and they are going to be here asking for more soon because they have already acknowledged they need another $40 billion or $50 billion for Iraqi reconstruction. They say they are going to get it from somewhere else. Where else? When we ask them, they say they have a big donors conference coming up. Do you know how much has been pledged? $1.5 billion. Where is the other $40 billion or $50 billion going to come from? They are going to be right back here asking for more.

They misled this Congress. They misled the American people. They did it repeatedly on issue after issue.

Here is what their USAID Administrator, Mr. Natsios, said on April 23 of this year:

> That's correct. $1.7 billion is the limit of reconstruction for Iraq. . . . In terms of the American taxpayer contribution, that is it for the U.S. The rest of the rebuilding of Iraq will be done by other countries and Iraqi oil revenues.

Wrong again. Wrong, wrong, wrong, and not just by a little bit; these folks have been wrong by a lot. Whether it was talking about the deficit or talking about the war with Iraq or the reconstruction of Iraq, this is a record of being wrong; wrong on major point after major point, over and over.

They say to us now:

> What we're focused on in the $20 billion is the urgent and essential things.

The $20 billion is the urgent and essential things. Really? Let's look. In this plan, there is $6,000 per radio/telephone. It costs for a satellite phone in this country $495. It costs for a walkie-talkie $55. Why when we go to Iraq all of a sudden phones cost $6,000? A satellite phone, where one can call anywhere in the world, costs less than $500,

and this administration is coming before this body and saying they need $6,000 per phone.

They want $33,000 per pickup truck. We have a lot of pickup trucks in our State. We have more pickup trucks being sold than any other kind of automobiles. The average cost of an award winning American truck is $15,400, and they want us to spend $33,000 per truck in Iraq.

They want us to pay $50,000 per prison bed. In this country, it costs $14,000 to build a prison bed. I don't know who did these calculations, but they seem an awful lot more eager to spend money in Iraq than they are to spend money in this country. It goes on and on.

They want $10,000 a month for business school in Iraq. In our country, it costs $4,000 a month for the best business schools, and we are going to be telling the American taxpayers they should spend $10,000 per month for business school? Who put these numbers together? Who came up with this plan?

The one that maybe is most incredible of all is the witness protection program. They want $200,000 per family member. For a family of five, that is $1 million, and $100 million to protect 100 families. In our country, the witness protection program costs $10,000 per witness. In Iraq, this is going to cost $1 million for a family of five. We don't have a witness protection program like that in this country. We have nothing like it. This is 20 times as much in Iraq.

They want $333 for 30 half-days of computer training. It costs $200 in this country.

This doesn't stand much scrutiny. This whole plan doesn't stand much scrutiny, and it is time for us to ask the tough questions. Clearly, this administration has not asked the tough questions.

I just found out they have $3 billion for water projects in Iraq, when they proposed in our country cutting water projects by 40 percent. They cut the water projects in America 40 percent and put in $3 billion for water projects in Iraq. I don't think the American people had any idea they were signing up to pay for a ZIP Code in Iraq or to have a witness protection program that costs $1 million a family or that they were going to be building $3 billion worth of water projects in Iraq. That wasn't the deal they signed onto. That is the deal this administration wants us to take, and all of this in the midst of the biggest deficits in our history, when we are having to borrow every dime. It does not make any sense. The very least we should do is pay for these costs and not put it on the charge card one more time. That is why the Biden amendment should be supported. He is asking the wealthiest among us to pay it.

This is not a matter of what some people claim of going after the rich. Look, my wife and I are in this category. We pay additional taxes under this amendment. I am voting it because it is the right thing to do. We should not be increasing the deficit of the United States.

We should not be putting it on the charge card when we already have record deficits. We ought to pony up and pay for the decisions we have made. Paying for this would just be a beginning. We would still have record deficits, by far the biggest in our history. We ought to support this amendment as a sign that we are getting serious about facing up to our fiscal challenges in this country. We also ought to adopt a series of amendments to cut the waste out of this proposal by the administration.

If this measure is not adopted, we ought to support other amendments to pay for these initiatives and other amendments to scrub this whole proposal for the fat and the waste that is so clearly included. It is intolerable to say to the American taxpayer, pay these costs, all of it with borrowed money, all of it to be paid by future generations of Americans. That is not the way we have conducted ourselves in the past, and it ought not to be the way we conduct ourselves now and in the future.

I urge my colleagues to support the Biden amendment.

I thank the Chair and yield the floor.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. GRASSLEY. It is my understanding that we have 6 minutes 20 seconds remaining on our side.

The PRESIDING OFFICER. Six minutes twenty seconds, correct.

Mr. GRASSLEY. I yield myself such time as I might consume of that amount.

There are three big problems with Senator BIDEN's amendment. One is substantive and two are procedural. Before I go into the problems with Senator BIDEN's amendment, I will say that I agree with everybody's concern, including his, about the size of the package and the concern that we should have about the Federal deficit. Hopefully, as the economy grows—and the last figures indicate it is growing now at 3.4 percent—Federal revenues will return then to their average levels of 18 to 19 percent of the gross domestic product, which is an average of over the last 60 years, and we will close the gap.

I also point to the fact that there are really two sides to the Federal ledger. One is the revenue side; that is, what comes in from the taxes paid by our factory workers, office workers, and farmers from across the America. The other side of the ledger is the spending side of the ledger, the appropriations bills by the Congress of the United States.

My friends on the other side of the aisle, as Senator BIDEN's amendment shows, are zeroing in exclusively on the tax side. They look only to the taxpayers to put our fiscal house in order. I agree with the goal of reducing the deficit. I disagree that it is appropriate to look at only one side as if what is wrong with America and what is the cause of the deficit is that American taxpayers are undertaxed and that in no way Congress overspends. Indeed, the Finance Committee approved a bill yesterday that included $55 billion in revenue offsets. So Republicans have been willing to exercise fiscal discipline, especially when it comes to closing corporate loopholes and curtailing tax shelters.

I ask the full Senate, who was the last Democrat to propose any savings on the spending side of the ledger? I do not recall a single spending cut being proposed by those on the other side of the aisle. Maybe back in the mid-1990s, but we would have to go back many years.

All I see, and Senator SANTORUM makes this clear with his spendometer chart, is spending increases. So if those on the other side want to claim to be fiscal disciplinarians, let us see entries on the spending side of the ledger in order for there to be credibility. We cannot just go to the American people and ask for more tax money.

Let me also say that I am concerned about the degree to which taxpayers are financing reconstruction in Iraq on a blank check basis. I first raised this concern almost a year ago. We ought to be very careful about the structure of this aid package. Maybe it should be a loan or have some equity interest for the taxpayers.

Now I would like to turn to Senator BIDEN's amendment. Let us go to the substantive problems first. Senator BIDEN is seeking to offset the President's $87 billion request with a tax increase. For 2001, the top rate was reduced to 38.6. For 2003, the top rate was reduced to 35 percent. Senator BIDEN's amendment would raise the top rate to 38.2 percent. The premise of Senator BIDEN's position seems to be that taxpayers in the top bracket are solely Park Avenue millionaires, clipping coupons and enjoying life. Well, the facts show quite differently.

According to the Treasury Department, about 80 percent of the benefits of the top rate go to small businessowners, people who create 80 percent of the new jobs in America. For the first time in many years, because of our tax bills, we have that top rate down to 35 percent, which is the very same as Fortune 500 companies. Senator BIDEN's amendment would restore a 10-percent penalty against small business, 38.2 percent, as opposed to 35 percent now for small business, the same as corporations.

I do not quarrel with the notion that taxpayers in the top bracket make incomes starting in the range of around $350,000 to $400,000. A lot of these successful small businessowners make those figures. But keep in mind that figure represents the total net income of those small businesses. Successful small businesses are those that purchase the equipment and hire those

new workers that I referred to as 80 percent of the new jobs.

I ask my friends on the other side of the aisle who are eager to raise taxes—they are reluctant to cut spending and eager to increase spending—to focus on the negative effects of their policy on small business. Small business creates many jobs. Why at this time, with high unemployment, would we want to raise taxes on the folks who create 80 percent of the new jobs?

Just yesterday, the Finance Committee, on a 19–2 vote, reported a bill designed to cut the top marginal rate for small business manufacturers to 32 percent. Senator BIDEN's amendment would go the other way and hammer our small business manufacturers.

Now, let's discuss the two procedural problems.

The first procedural problem is also constitutional. Under the Constitution, revenue measures must originate in the House. Senator BIDEN's amendment is a tax increase. It is a clear case of a revenue measure. The Ways and Means Committee has indicated the House will exercise its Constitutional prerogative and ''blue slip'' this bill if it contains Senator BIDEN's amendment. A blue slip kills this bill. We go back to square one. A vote for the Biden amendment is a vote to stop aid to our troops. It is a vote to stop aid to the Iraqi people at a critical time.

Let me repeat that point. A vote for the Biden amendment is a vote against aid to our troops. A vote for the Biden amendment is a vote against assistance to the Iraqi people.

From my own perspective, as chairman of the Finance Committee, I have to warn members of our committee that the Biden amendment raises a fundamental tax issue on an unrelated bill. The Biden amendment treads on Finance Committee's jurisdiction. Every Finance Committee member should oppose Senator BIDEN's amendment on that basis alone. But, most importantly, this amendment is a reckless attack on our economic recovery and I strongly urge its defeat.

I ask Senators to defeat the Biden amendment and not increase taxes on small business.

Mr. ROCKEFELLER. Mr. President, this amendment is not about whether or not we ought to appropriate the funds that President Bush has requested for our efforts in Iraq and Afghanistan. Rather, this amendment addresses the question of whether this Congress is willing to pay the bill or whether we will pass it on to future generations. I am unwilling to tell the children in West Virginia that I believe they should pay this bill when they grow up when there is a reasonable alternative.

If we do not offset the $87 billion cost of this emergency supplemental request, then it will be added to our Nation's deficit. Already, without this spending, the Federal deficit for fiscal year 2004 is projected to be $480 billion. That number is staggering. Prior to this administration, the largest deficit this government ever had in a single year was $290 billion. So already, we know that our deficit will be higher than ever before, by a lot. Without this amendment, we would add another $87 billion to this deficit. Our deficit would hit $567 billion—almost twice the size of the previous record deficit.

These are not just numbers. Such enormous deficits have consequences. Our children will have to pay these bills. Instead of investing in education or roads or military preparedness for their own generation, they will still be paying the bills for our generation. Already we have saddled future generations with almost $7 trillion in debt. We absolutely must not add to that debt when this amendment offers an alternative.

We also know that such large deficits will have an impact for our own generation. As Federal debt increases, it will put pressure on long term interest rates, which will hurt every middle class family trying to pay their mortgage. And I am certain that in the coming weeks my colleagues will say that we have to cut spending on education, health care, infrastructure, unemployment compensation, and other critical domestic priorities in order to reduce the deficit. Make no mistake: adding to the deficit today, will increase pressure to squeeze out spending that benefits low and middle income Americans at a time when they are already struggling.

Increasing the burden on low and middle income Americans would be spectacularly unfair. As I travel around West Virginia, I talk to many families who have children serving in the armed forces in Iraq or Afghanistan. Thousands of West Virginians have been called up to serve in the National Guard or Reserves. They are not millionaires. They are patriotic West Virginians with modest incomes, and they are already sacrificing things more valuable than money to make our military efforts a success.

So let me discuss for a moment what sacrifice this amendment asks for. This amendment says that those with incomes greater than $311,950 should pay a top income tax rate of 38.2 percent in the years 2005 through 2010. Even with this change, the top income tax rate will be lower than it was when President Bush took office. In fact, of the $690 billion in tax cuts that this President has signed into law that are targeted at the wealthiest 1 percent of Americans, $600 billion in tax cuts would still be in place. Under this amendment, a person making $1 million per year would still get a tax cut of more than $20,000 compared to what he or she would have paid in 2000, prior to this President's tax cuts taking effect. It is not asking for an undue sacrifice to ask a millionaire to settle for a $20,000 tax cut. I wish there were more people in West Virginia that would see this $20,000 tax cut, but of course, only the wealthiest fraction of taxpayers, less than 1 percent, would be affected by this amendment.

I will be supporting this amendment because I cannot explain to children in West Virginia that giving a millionaire a tax cut greater than $20,000 was more important to me than their future. I hope that my colleagues will think carefully about this stark choice, and join me in supporting Senator BIDEN's amendment.

The PRESIDING OFFICER. The time controlled by the majority has expired.

The Senator from Delaware.

Mr. BIDEN. Mr. President, I think I have some time. If the majority wants more time, that is fine by me. I yield myself such time as I may consume. I want to take a minute or so to respond to my friend, the chairman of the Finance Committee, while he is in the Chamber.

Mr. REID. Will the Senator yield briefly?

Mr. BIDEN. Sure, without losing my right to the floor.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. Mr. President, the author of this amendment has approximately 25 minutes remaining. We have been informed that there is going to be an effort by the majority to have a vote at 3:45 rather than 3:15, which is fine with us. I have also been told that the chairman of the Budget Committee wants to speak for up to 5 minutes. So if there is no objection to that, could we have 5 minutes additional on each side?

Mr. NICKLES. If I might modify the request of the Senator, I ask unanimous consent that the vote occur at 3:45 with 15 minutes allotted to each side.

Now, I was not aware that originally Senator BIDEN, in his eloquent negotiations, already had a 2-hour advantage over this side. There might be a few additional remarks this Senator wants to make which will take a little more than 5 minutes.

Mr. REID. I ask if we could further modify the request of the Senator from Oklahoma by having Senator BIDEN have the last 10 minutes prior to the vote.

Mr. NICKLES. Ten? I will further modify that. I will certainly accede to that. If he has only spoken for 2 hours, we look forward to an additional 10 minutes for the Senator from Delaware.

The PRESIDING OFFICER. Is there objection to the modified request?

Without objection, it is so ordered.

The Senator from Delaware.

Mr. BIDEN. Mr. President, I yield myself as much time as I may consume. Senator GRASSLEY is leaving. I wanted to grab him.

I do enjoy the sarcasm of my friend from Oklahoma, who speaks on this floor about 40 times as much as I do, if he goes and checks the RECORD. Always elucidating, if I might add, always elucidating.

I say to my friend, the chairman of the Finance Committee, I understand

the points he is making. But he is aware, in terms of small businesses, that a small business owner would still have to be in the top 1-percent income bracket, the 35-percent bracket, to be affected? And, of all the small businesses in America, only 2 percent fall in that bracket? Only 2 percent of the 100 percent of the small businesses in America fall in the bracket.

To further make a point, I understand his point that this is the engine of our economy, small businesses. There is no question about that. There is no question, though, as well—let's say a small business owner is making $400,000 in gross income. The effect of the additional tax he would pay from the tax reduction he has gotten down to now would be $2,140 a year. Is my friend suggesting we are going to constrain and strangle business in America when 2 percent of the small businesses, roughly 5,000, who make $400,000 gross income and above, are going to have to pay $2,100 a year more, that that is going to constrain the growth of small business? Is that what he is saying? Is that going to prevent them from being able to invest or to be able to grow?

Mr. GRASSLEY. I am saying it is unfair to tax small business that is not incorporated at a higher rate than the tax on Fortune 500s, No. 1.

Number 2, this may only be 2 percent of the employers, but they are the people who create the jobs.

Mr. BIDEN. I couldn't agree more.

Mr. GRASSLEY. I have worked at packing plants; I worked at the Waterloo Register Company. I never had one poor person provide the job for me. I always had somebody who makes a lot more money than I do provide the jobs for me. We don't want to choke that off in America.

Mr. BIDEN. I thank my colleague for his response. He is always courteous. I just respectfully suggest that taking 2 percent of the small businesses in America, having them have to pay slightly more than they would have paid with this tax cut that is in place now—which, again, if they are making $400,000 in gross income, that means about $2,100 more they will pay—is a heck of a lot more preferable than asking middle-class taxpayers and asking small businessmen who make $50,000 a year, and mechanics who make $35,000 a year, and schoolteachers who make $40,000 a year, to have to pay more.

I find it fascinating that for those who do not like my proposal to deal with the top 1 percent, I have not heard any alternative offered. Are they suggesting we should repeal part of the tax cut or delay part of the tax cut for everybody? No, they make no alternative offer. The alternative offer they make is we are going to add it to the deficit, so the pages can pay. I am going to start calling this the page-pay bill. The pages will pay.

I see my friend from Oklahoma, whom I always enjoy hearing, and he was seeking the floor earlier, so I reserve the remainder of my time and await the eloquent words of my friend from Oklahoma as to why this is not a good idea. I am sure he has very many ideas as to why this is not a good idea.

I yield the floor. I reserve the remainder of my time.

Mr. NICKLES. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. NICKLES. Mr. President, I ask unanimous consent the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. NICKLES. I have just caught a portion of this debate, but I want to make a couple of comments. My very good friend from Delaware said, Why is this amendment a bad idea? This amendment is a bad idea because it is unconstitutional.

We all take an oath at the beginning of the year to uphold the Constitution. I know all of our colleagues are aware of article I, section 7 of the Constitution that says all bills raising revenue shall originate in the House of Representatives, but the Senate may propose or concur with amendments as on other bills.

The House originates tax bills. The amendment of our colleague from Delaware tries to turn an appropriations bill into a tax bill, a tax bill that did not go through the Ways and Means Committee. It certainly didn't go through the Finance Committee. I am on the Finance Committee. So it is unconstitutional.

If this amendment passes, the House will blue-slip it. For people who do not know what a blue slip is, they kill the bill. They will not even consider it. They will not even look at it. It is a great tradition in the House because we have tried it on occasion. Every time it happens, every time somebody tries to slip in a little revenue provision in the bill, no matter how insignificant in comparison to the overall bill, the House loves to blue-slip it and remind the Senate that the Constitution gives them and them only the right to originate revenue bills.

Our forefathers put it in the Constitution. We are sworn to uphold the Constitution. This is a killer amendment. It does not belong in this bill.

If our colleague wants to raise income taxes by 10 percent on the upper income brackets, he can do so. He can introduce a bill. He may or may not get a hearing before the Finance Committee. I hope not, but he might. He may or may not get a markup in the Finance Committee. I hope not, but he might. He might take a bill that is going through the Finance Committee and offer it as an amendment and be successful. I hope not, but he might. Those are all legal, constitutional avenues of raising taxes.

This is not. You don't raise taxes on a spending bill that is going through the Senate unless the House has a revenue provision. If the House has a revenue provision, then it certainly can be done. So that is one reason. Let's not kill this bill.

I have heard a lot of people say they support the bill. They want to pass the money, they want to assist the troops, they even want to assist the Iraqi people—it is hard to say the Iraqi government; they don't have a government yet, but we are trying to establish a government and I compliment Ambassador Bremer and the President. This is an enormous effort the United States is undertaking. It is challenging; it is expensive. It is expensive in dollars and it is also expensive in blood. We have lost American lives. We have thousands of Americans who are spending their time right now in Iraq, in Baghdad, away from their families, making a significant sacrifice. Now we are trying to say are we going to help them or are we not.

This amendment which purports to say we want to pay for it, but we are only going to have the upper 1 percent pay for it, I don't think is good tax policy. I don't think you can say we just want to sock it to the upper income people.

I heard earlier statements by speakers saying if we do not do this, the deficit is just getting really bad. I happen to be concerned about the deficit, too. But I might note we just passed a couple of appropriations bills and I tallied up the number of amendments to increase spending on those appropriations bills and I didn't hear very much on the other side about concern for deficit. One of the last appropriations bills we passed was the Labor-HHS appropriations bill, and there were amendments, primarily supported by colleagues on the other side of the aisle, that we defeated using budget points of order, that would have increased spending over a 1-year period, next year, $26.4 billion, and over a 10-year period $386.8 billion. That was just on the Labor-HHS bill alone. No one was saying the deficit concerns us.

Then on another bill, just to give another example on the Homeland Security bill, Senator COCHRAN's bill, Senator COCHRAN made points of order against amendments to increase spending by $17.4 billion in 2004 alone, and a total of $254.1 billion over a 10-year period of time.

I did not hear people say then, we are concerned about the deficit. In other words, they are quite willing to spend more money and bust the budget over the President's request and over what was agreed upon by both the House and the Senate. There was no concern about deficits when we were trying to increase spending in those areas.

Now we have a spending bill before us. This bill is outside the budget. It is requested as an emergency by the President of the United States. It passed the Appropriations Committee as an emergency. I am not saying it is perfect. I will tell you that I doubt it is

perfect. I expect it might be improved. It probably will be improved as we consider it on the floor. But to say we are now going to basically violate the Constitution and have a tax amendment that would really, in effect, kill the bill, I don't want to do that. Nor do I want to increase income tax rates on the upper 1 or 2 percent of American taxpayers. That is a 10-percent increase.

I heard people say that is just delaying it. It is a 10-percent increase. It would take the maximum rate from 35 percent to 38.2 percent. I might mention 35 percent. When Bill Clinton was President, the maximum rate was 31. When he was elected, it was 31 percent. After he passed some tax increases, it went up to 39.6. All these great tax cuts that we have done moved the tax rate down to 35 percent.

President Clinton and Congress at that time reduced the rate of his increase on the upper income by about half. If my math is correct, 35 percent is more than a third. That doesn't include what States charge. If you add State taxes on top of it, you realize some people are paying more than 40-some-odd percent of their income to government. In other words, government is coming closer to taking half of what they make. I disagree with that because I think that suffocates people's initiative and their willingness to build, grow, and expand.

As mentioned by the chairman of the Finance Committee, 80 percent of the benefits on the top income tax rates are really held by small business and sole proprietorships, S corporations, and farms. We would be hitting the very people who are creating the jobs. If we want to have economic growth in this country, the last thing we need to do is say, if you are only a small business, we will sock it to you with a 10-percent increase. I think that makes no sense whatsoever.

I urge my colleagues to vote no on this amendment primarily on constitutional grounds. If this amendment is agreed to, this amendment will be blue-slipped. It would kill the bill, and there would be no assistance coming out of the Senate.

I urge my colleagues not to make that mistake—not to pass a tax policy without consideration certainly of those on the Ways and Means Committee and on the Finance Committee as is the normal order, the way we are supposed to legislate on appropriations matters.

I yield the floor.

I suggest the absence of a quorum, and I ask unanimous consent that the time be charged equally to both sides.

The PRESIDING OFFICER (Mr. CRAPO). Without objection, it is so ordered.

The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. HARKIN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HARKIN. Mr. President, I understand the vote is to take place at 3:45.

The PRESIDING OFFICER. That is correct.

Mr. HARKIN. I ask between now and the time the vote is called, if we are in a quorum call, the time be charged equally to both sides.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HARKIN. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BIDEN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BIDEN. Parliamentary inquiry, Mr. President: How much time remains under the control of the Senator from Delaware?

The PRESIDING OFFICER. Seventeen minutes.

Mr. BIDEN. I thank the Chair. Second inquiry: And how much time does the majority have?

The PRESIDING OFFICER. The majority's time has expired.

Mr. BIDEN. And last inquiry: And the vote is set for?

The PRESIDING OFFICER. It is set for 3:45.

Mr. BIDEN. I thank the Chair very much.

Mr. President, I yield myself such time as I may consume, and I expect to consume the remainder of my time now.

The PRESIDING OFFICER. The Senator from Delaware is recognized.

Mr. BIDEN. Mr. President, I expected to—and I did hear—a vigorous defense of the tax cuts today. And I expected to hear that anyone who supports my proposal to pay for this $87 billion supplemental is someone who is hostile to wealth and success. I did not hear much of that. I heard a little bit of that. And I expected to hear that I am really putting regular folks into the category with Park Avenue wealthy people. I expected to hear that.

Well, think of it this way: If someone today came to the floor and proposed a $600 billion tax cut for the top 1 percent of the American taxpayers—assume the tax cut had not passed. Just picture this: Someone walked on the floor today, as we are about to vote on an $87 billion supplemental, and said: I propose a $600 billion tax cut between now and the year 2010 for the top 1 percent of the American taxpayers—and did it, again, at this moment, when we will have a $500-plus billion deficit for next year, and expanding national security demands, not decreasing national security demands, well beyond Iraq, and expanding homeland security needs, not diminishing homeland security needs, and while the House of Representatives and the Senate are in conference about to report back, I assume, a multibillion-dollar relief bill as we need for prescription drugs.

If someone came forward today and said, I have an idea; let's diminish the tax burden of the top 1 percent of the U.S. taxpayers—that is, people making an average of $1 million a year—let's reduce their taxes by $600 billion, what do you think would happen? Would anyone seriously on this floor say, that is a good idea now, that is a great idea, let's go ahead and do that?

How about if they came to the floor and said, Let's not make it $600 billion, let's cut their taxes $689.1 billion, roughly. Would anybody here vote for that today? Would anybody honestly vote for that today?

Today we hear that $600 billion in tax cuts for the wealthy is not enough. Why do I say that? My proposal only says, instead of giving the wealthiest Americans, that is people making a gross income of about $400,000 a year, a net income after all the deductions and everything of about $312,000 a year, you don't even get into this game unless you fall in that category, and people who are making $1 million a year on average, all I am saying is, give them $600 billion, not $690 billion, and don't even touch them until 2005. Have them pay this out in additional taxes, instead of getting 690 get 6 over a 6-year period, beginning in 2005 basically. That is all I am saying.

Today we are told by those who oppose this that, no, we can't afford to do anything except give them a $688.9 billion limit or the sky will fall, small business will shutter their windows, and the recovery of capitalism, as we know it, will grind to a halt.

Give me a break. I have yet to hear a single economist—this has been floating around now out there, this idea of mine, for the past couple weeks—say this is going to have any impact on the recovery. In fact, the opposite is going to happen. If we add another $87 billion to the deficit, interest rates will go higher. That is going to short circuit a recovery, not paying out over a 6-year period an additional $87 billion that is not going into their pockets.

Again, I keep coming back to this point. Even wealthy Americans don't oppose this. A Wall Street Journal poll asked the question, If Congress approves President Bush's request for $87 billion in Iraq and Afghanistan, how would you prefer that Congress pay for it? Scrap the Medicare drug benefits bill?

Seven percent of Americans, obviously those with Medicare benefits and drug coverage, said, yes, that is a good idea; pay for it by not passing the prescription drug proposal. Twelve percent said to borrow the money. Add to the deficit; go out and borrow it. Make the pages pay. Borrow for it. Twelve percent said that. Twenty-five percent said some other way or they were not sure. A full 56 percent said, cancel, not 13 percent of the tax cut for the wealthiest—I think that is the number—but cancel all of the tax cut for

the wealthiest Americans. They want to take it all away.

I am not doing that. I am saying, keep $600 billion. Just don't take $688.9 billion.

Look, I have been here a long while. It is fascinating to me. I keep getting the same lesson taught to me. The American people are always way ahead of us. The $87 billion in additional revenue we are seeking with this amendment is less than eight-tenths of 1 percent of our $11 trillion economy.

I challenge any of my colleagues to tell me they honestly believe this is going to slow up this jobless recovery. It won't even have any affect until the recovery is a year and a half underway. Fewer than 1 percent of the wealthiest Americans will even be affected by this change. Keep in mind, this is like my saying to my grandchildren—I have three granddaughters—we are going to go to the ice cream store and, look, pop only has 12 bucks with him. I can only afford three double-dip ice cream cones. I can't afford three triple-dip ice cream cones. So you are only going to get two dips instead of three. It is not like saying: Look, kids, I was going to feed you tonight but you are not going to get to eat. We were going to have hamburgers and french fries and a salad, but all I am going to give you is a salad. Or you can't eat at all. We are not taking away anything. We are just not giving as much.

Again, small business, fewer than 2 percent of small businesses, that is, sole proprietors, the real mom-and-pop small businesses, will even be affected by this. Ninety-eight percent will not be affected.

This is a small, tiny nick in a huge tax cut. It asks for a contribution from those who have the clearest ability to contribute—not because we want to punish them. This isn't about being punitive. It is because they have the clearest capability.

Again, take my granddaughters out. Assume my son was not doing better than I am—he is but assume he isn't—and the kids want an ice cream cone. Why shouldn't pop pay? I have the money to pay for it. It is not going to affect me at all. But if all he had in his whole pocket was 10 bucks for the week, why should he pay when I have 300 bucks in my pocket? This just isn't fair.

Again, I repeat, I don't know any wealthy Americans making $1 million a year who say, look, I don't want to do this. It is going to hurt me. I am not going to be able to make it. This is going to put a crimp in my style.

Again, let me give you a number. If you have an income of $400,000 a year—remember, the average income of the people in this bracket is almost a million dollars, 980-some-thousand dollars a year. Let's just put that in perspective. If, in fact, you are making $400,000 a year and your tax rate is going to go, from 2005 to 2010, back up from 35 to 38.2, what is the effect on your pocket? You pay the difference between 312, which gets you into the category, and 400, at a higher rate. That is $68,000, roughly. You have to get to 380-something. How much more taxes does it mean that you pay? Roughly, $2,100 more a year.

Are you telling me the people making $400,000 a year are not willing to kick in $2,100 a year for 5 years beginning in the year 2005—or for 6 years beginning in 2005 to win the peace in Iraq? Boy, do we underestimate these folks. These are loyal, patriotic Americans. They would be ready to do a lot more if we needed them to do it. But $2,100, if you make a million dollars? I asked my staff to do a back-of-the-envelope calculation. Let's say the poor guy who has no deductions—''poor'' guy—the rookie who signs a contract for $1.150 million. Guess what. After standard deductions because of the loopholes and the other things the wealthiest among us in this country have, he has a real taxable income of a million dollars. How much more is he going to have to pay? Roughly $22,000. That is going to kill him, right? Does that mean you don't have a gold-plated toilet seat? What does it mean?

Again, I am not hearing any of these wealthy folks complain. I am hearing everybody complain in their name, but I don't hear any of them complain. Let me tell you, I have been doing this a long time. Few times have I ever stood on the floor, with CNN watching, saying if there is anybody who is making over $400,000 a year who is not willing to pay $2,100 more to win the war, call me. No one is calling me. I don't get this.

I don't think these folks who will be affected by this tax change will begrudge one nickel of this $87 billion. So I say to my colleagues, if we don't do this now, pay for this installment in the war now, taking a small part of the tax cut, when we have a national security emergency supplemental request from the President, when the deficit is skyrocketing to over half a trillion dollars a year, are there no circumstances ever when it will be right to reconsider less than 5 percent of the biggest tax cut in history?

My time is almost up. It seems to me we are at a place where responsibility dictates that we be rational and not ideological, we pay now instead of just putting this on the tab for the pages on the Senate floor, that we don't ask our children to pay for our security, and we pay for our security and our children's security.

This, to me, is the most inexplicable opposition to anything I have ever been involved with on the floor of the Senate.

I believe my time has expired. I urge my colleagues to vote for the Biden-Kerry amendment. I thank the Chair and yield the floor.

The PRESIDING OFFICER. The Senator from Alaska is recognized.

Mr. STEVENS. Mr. President, for the reasons previously stated on this side, I move to table Senator BIDEN's amendment and ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The question is on agreeing to the motion.

The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. REID. I announce that the Senator from Florida (Mr. GRAHAM) is necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 57, nays 42, as follows:

[Rollcall Vote No. 373 Leg.]

YEAS—57

Alexander	DeWine	McConnell
Allard	Dole	Miller
Allen	Domenici	Murkowski
Baucus	Ensign	Nelson (NE)
Bayh	Enzi	Nickles
Bennett	Fitzgerald	Pryor
Bond	Frist	Roberts
Breaux	Graham (SC)	Santorum
Brownback	Grassley	Sessions
Bunning	Gregg	Shelby
Burns	Hagel	Smith
Campbell	Hatch	Snowe
Chambliss	Hutchison	Specter
Cochran	Inhofe	Stevens
Coleman	Kyl	Sununu
Collins	Lincoln	Talent
Cornyn	Lott	Thomas
Craig	Lugar	Voinovich
Crapo	McCain	Warner

NAYS—42

Akaka	Dorgan	Lautenberg
Biden	Durbin	Leahy
Bingaman	Edwards	Levin
Boxer	Feingold	Lieberman
Byrd	Feinstein	Mikulski
Cantwell	Harkin	Murray
Carper	Hollings	Nelson (FL)
Chafee	Inouye	Reed
Clinton	Jeffords	Reid
Conrad	Johnson	Rockefeller
Corzine	Kennedy	Sarbanes
Daschle	Kerry	Schumer
Dayton	Kohl	Stabenow
Dodd	Landrieu	Wyden

NOT VOTING—1

Graham (FL)

The motion was agreed to.

AMENDMENT NO. 1802

Mr. COLEMAN. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER (Mr. SMITH). The clerk will report.

The legislative clerk read as follows:

The Senator from Minnesota [Mr. COLEMAN], for himself, Mr. BYRD, Mr. DAYTON, Mr. STEVENS, Mr. LEAHY, Mr. DORGAN, Mr. KENNEDY, Mr. JOHNSON, Mr. CORZINE, Ms. COLLINS, Mr. GRAHAM of South Carolina, Mr. CONRAD, Mr. SUNUNU, and Mr. ALLEN proposes an amendment numbered 1802.

Mr. COLEMAN. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To fund travel within the United States for members of the Armed Forces on rest and recuperation leave from a deployment overseas in support of Operation Iraqi Freedom or Operation Enduring Freedom)

On page 22, between lines 12 and 13, insert the following:

SEC. 316. (a) In addition to other purposes for which funds in the Iraq Freedom Fund are available, such funds shall also be available for reimbursing a member of the Armed Forces for the cost of air fare incurred by the member for any travel by the member within the United States that is commenced during fiscal year 2003 or fiscal year 2004 and is completed during either such fiscal year while the member is on rest and recuperation leave from deployment overseas in support of Operation Iraqi Freedom and Operation Enduring Freedom, but only for one round trip by air between two locations within the United States.

(b) It is the sense of Congress that the commercial airline industry should, to the maximum extent practicable, charge members of the Armed Forces on rest and recuperation leave as described in subsection (a) and their families specially discounted, lowest available fares for air travel in connection with such leave and that any restrictions and limitations imposed by the airlines in connection with the air fares charged for such travel should be minimal.

Mr. REID. Mr. President, will the Senator withhold for a minute?

Mr. President, I ask unanimous consent that Senator LEAHY be recognized following the disposition of the Coleman amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. REID. Mr. President, I ask unanimous consent that Senator BYRD be added as a cosponsor to Senator COLEMAN's amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Minnesota.

Mr. COLEMAN. Mr. President, the Pentagon has rolled out a program to bring home troops who have served in Iraq for over a year. It is a good program. Under the Rest and Recuperation Leave Program, these service men and women will get a much deserved 2 weeks of R&R with their families. Unfortunately, the program only provides for transportation to places such as Baltimore, Atlanta, Dallas, or Los Angeles. From these cities, our service men and women are expected to pay their own way home at same-day rates.

Chad Krandall and Dave Schmaltz, cousins and Minnesota National Guard members from Gwinner, MN were told the price of a same-day ticket from Baltimore to Minneapolis-St. Paul would be $1,200 each. Steven Bazaard, another Guard member from Minnesota, was faced with a similarly high bill if he was to make it all the way home to see his wife Sherry Billups in Blackduck, MN. Isaac Girling, a member of the 142nd Battalion in Iraq, will have to pay the same exorbitant fee when he comes home next week to Stillwater, MN to see his newborn son for the first time.

I don't have anything against Baltimore, Atlanta, Dallas, or Los Angeles. But to be perfectly frank, these cities can't really hold a candle to Blackduck or Gwinner, and they are a long way away and expensive to travel to.

This R&R program is a good start, but it doesn't go far enough to support our troops. These are families which have already made do for a year without their loved ones, and the toll has been both emotional and financial. To ask them to pay same-day airfare to see their loved ones is simply unfair.

If we acknowledge that troops who have been in Iraq for a year deserve a 2-week vacation like anyone else, we ought to make sure they get all the way home. That is what we are talking about here—making sure our service men and women who have performed so admirably, have sacrificed so much in defense of their country and in defense of freedom, get all the way home.

I have introduced, along with the distinguished chairman, Senator STEVENS, and my friend and fellow Senator from Minnesota, Senator DAYTON, an amendment to fix this unintended consequence of the R&R program. We have broad bipartisan support, including Senators BYRD, DAYTON, ALEXANDER, CHAMBLISS, COLLINS, CONRAD, CORZINE, CRAIG, DEWINE, DOMENICI, DORGAN, ENSIGN, ENZI, GRAHAM of South Carolina, GREGG, JOHNSON, KENNEDY, MURKOWSKI, SANTORUM, SUNUNU, STEVENS, and ALLEN.

The chairman and his staff on the Appropriations Committee have been very gracious in working with me to craft a good amendment to make sure our troops and their families do not have to pay these high rates.

This amendment will not have any budgetary consequence. It will simply make sure existing funds are used for this essential program to boost troop morale and to reunite families separated by this engagement. This amendment is the right thing to do.

I notice my friend and colleague, the senior Senator from Minnesota, Senator DAYTON is here. I yield the floor at this time to Senator DAYTON.

The PRESIDING OFFICER. The Senator from Minnesota.

Mr. DAYTON. Mr. President, I thank my distinguished colleague, Senator COLEMAN, who joined with great minds which think in the same direction. We introduced this legislation on the same day. I am proud to be joining with Senator COLEMAN in the Coleman-Dayton amendment to provide for transportation to homes and places of origin for our troops, many of whom, in the case of Minnesota, have just had their tours of duty in the Iraqi theater extended by 6 months. In the case of the 142nd Battalion, it covers northwestern Minnesota and North Dakota. As a result of this extension and this deployment and administrative matters, many of them will not see their families for up to 18 months. To drop them off at the Baltimore airport and tell them they are going to be on their own at that point and at their own expense to try to get back and see their families for their one opportunity in nearly 18 months I think would be shameful. I think the American people are more generous than this. I think under these circumstances it is the least we can do.

I thank the Senator from Minnesota for his leadership on this matter, and I am glad to sponsor it with him.

I yield the floor.

Mr. COLEMAN. Mr. President, I say to my friend and colleague, Senator DAYTON, that the two folks from Minnesota understand it is really good to get home—and also the folks from Alaska and Idaho. This amendment does that.

I urge adoption of the amendment. I yield the floor.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. LEAHY. Mr. President, I want to commend both Senators from Minnesota for sponsoring this amendment. If they have no objection, I ask unanimous consent to be added as a cosponsor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CONRAD. Mr. President, I express my support for this amendment—which is very similar to an amendment I had filed earlier—to pay for the travel home of U.S. troops currently serving in the Iraqi theater of operations. I am pleased to join in cosponsoring the amendment.

The Department of Defense recently announced that it would grant soldiers on 12-month deployments as a part of Operation Iraqi Freedom 15 days of rest and recuperation leave. About 270 soldiers a day are now arriving in the United States to begin their leave period. At the present time, these troops are required to pay their own way home from their port of debarkation—right now, Baltimore-Washington International Airport. It says something about the priorities of the Department of Defense that while they are asking Congress for another $87 billion for war and reconstruction in Iraq and Afghanistan, they are also making soldiers on leave pay for their transportation home and back.

Many of these soldiers are members of the Reserves and National Guard. Many of those citizen soldiers have recently learned that, because the administration has been unable to mobilize sufficient international support to ease the burden on American troops, they will be required to spend a full 12 months in Iraq. This is in addition to the 2 to 3 months they spent away from home training for their mission. Despite the shifting dates for their return home, our American service men and women have served with courage and distinction in terrible conditions.

Soldiers from the 142d Combat Engineering Battalion, a North Dakota National Guard unit, have already begun coming home on leave. The first soldiers chosen for leave were very concerned that they might have to pay well over $1,000 to buy a ticket home from Baltimore. I was very pleased that Northwest Airlines, the main provider of air travel to North Dakota, was able to respond to my request to offer reasonable priced tickets to these brave soldiers.

But this should be only a temporary measure. I urge the Senate to now clear the way for full government funding of the travel expenses for our

troops on leave, including those that will take leave before we are able to complete our legislation, by adopting this amendment. In working on this amendment, I wanted to be sure we avoided creating an unfair disparity between soldiers. We will not likely conclude action on this supplemental until the tail end of October, and by that time several thousand soldiers will have already paid for their own travel home. It seemed unfair to me that these soldiers should be forced to pay their own way while those who traveled later would go at government expense.

Our troops in Iraq have been serving under difficult conditions, and they deserve our full support. I greatly appreciate Chairman STEVENS' willingness to include this important issue in the supplemental appropriations bill. I am happy that we were able to work together to provide for the travel expenses of our brave soldiers serving in Iraq.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 1802) was agreed to.

Mr. LEAHY. I move to reconsider the vote.

Mr. COLEMAN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. LEAHY. Mr. President, what is the parliamentary situation?

The PRESIDING OFFICER. Under the previous order, the Senator from Vermont is recognized to offer an amendment.

Mr. LEAHY. I thank my friend, the distinguished Presiding Officer.

AMENDMENT NO. 1803

Mr. LEAHY. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Vermont [Mr. LEAHY] for himself, Mr. DASCHLE, and Mr. BIDEN, proposes an amendment numbered 1803.

(Purpose: To place the Coalition Provisional Authority in Iraq under the direct authority and foreign policy guidance of the Secretary of State)

On page 25, line 21, before the colon, insert the following:

: *Provided further*, That beginning not later than 60 days after enactment of this Act, the Administrator of the Coalition Provisional Authority shall report to and be under the direct authority and foreign policy guidance of the Secretary of State.

Mr. LEAHY. Mr. President, this is a very simple amendment. That is why I didn't follow the usual procedure where amendments are simply deemed read. This was a short enough one that I wanted it read.

It does what many of us feel we should have done 5 months ago when we appropriated the first $2.5 billion in foreign aid for Iraq. At the time we gave that very substantial amount of foreign aid to Iraq, many of us urged the Secretary of State—not the Secretary of Defense—should have authority over the reconstruction program.

No matter who is Secretary of State, no matter who is Secretary of Defense, when you are going to give enormous amounts of foreign aid for reconstruction, the aid should be under the Department of State. After all, foreign aid is the responsibility of the State Department. Also, it is the responsibility of USAID. That is what they know how to do. That is what their people are trained to do.

It is not what the Pentagon does, nor, for that matter, is it what the Pentagon should be doing. The Pentagon is trained in military combat. In fact, our forces, the men and women in the Army, Navy, Air Force, and Marine Corps, are the best trained, the best equipped, best motivated of any military in the world. Obviously, they showed they can easily defeat other military forces as they did in Iraq.

While they are trained for war, the State Department is trained to work to rebuild. In this case, as superb as the military role was, their leadership disregarded the preparatory work the State Department and USAID had done in planning for after the war. The problems they now face reflect that.

I am concerned we are putting our men and women in the military in an impossible situation. They are being asked not only to provide security, but to also oversee the reconstruction.

I have a lot of respect for Ambassador Bremer. I have known him and worked with him on terrorism and other matters over the years. He did a good job last week when he testified before the Appropriations Committee. Like a lawyer arguing the brief for his client, he argued well. But Ambassador Bremer's office, which is located in the Pentagon, until very recently was not capable of responding to our questions. The questions we were asking were not how many divisions might move here or how many tanks, airplanes, helicopters, men and women under arms can move, but, rather, how can we do a better job of getting water, and electricity, and other aid to the Iraqi people?

We saw the reconstruction plan, apparently a Pentagon plan, an 8-page document. When it came out a couple months ago, none of us on this side of aisle received it.

Now that we have seen it, I understand why they didn't want everyone to have it. It is embarrassingly illustrative of the administration's postwar strategy. There was no postwar strategy. All the strategy led up to winning in Iraq. Everyone knew how that would come out. Of course we would defeat the broken Iraqi army. Everyone knew we were going to win. This was not World War II. But, amazingly enough, there was no strategy for what happened after we won.

I am not among those who believe everything we have done in Iraq has been a failure. There has been progress. For one thing, I am glad Saddam Hussein is not here. He was a murderous tyrant. Members of the administration now talk about the murderous conduct of Saddam Hussein when he used chemical weapons against the Kurds—something many Members were outraged about at the time—and they seem to forget the administration they served at that time turned a blind eye to that and continued to give aid to Saddam Hussein.

Having said that, now I think everyone, whether those in the Congress or the administration who supported Saddam Hussein over the years, we all agree—all Republicans, all Democrats agree—he was a tyrant and it is good he is gone. That is progress.

We have begun to train a new army and police force and so on. That is progress. But we were told this spring that the amount of money for the aid program would be very small. Now we are asked to increase our aid program ten fold, with virtually no controls on how the money will be spent.

So, we got into the war, we had no plan for what we would do afterwards, we have real problems now, and now they want a blank check to take care of it. We will pay $33,000 each for pickup trucks that sell for $14,000 here, and we will pay $6,000 for telephones you can buy in the neighboring country of Jordan for $500 or $600. We will pay $50,000 a bed for a prison although that is far more than we would in the United States. We will repair their power infrastructure although we do not have money to do the same in the United States. We will build a whole lot of new schoolhouses although we do not have the money to fix our dilapidated schools. We will build state-of-the-art hospitals even though we do not have the money for new health clinics in parts of the United States. And we are told: Just give us the money and trust us; we know what to do.

In my State, we do not sign blank checks. I am sure we will give money for foreign aid even though we do not have the money to do the same things in the United States.

Simply spending more money does not get us back on track. We need a real plan, and we need the right agency in charge. That is why this amendment is so short. It is one sentence. It simply puts the Coalition Provisional Authority—and I assume that will be Ambassador Bremer although I am not doing this on an ad hominem basis—simply put the coalition provisional authority, Ambassador Bremer, who has been working around the clock to carry out our interests there, under the foreign policy guidance and direction of the Secretary of State. It would provide 60 days after enactment to give the State Department time to put in place the people it needs.

Does that mean the Department of Defense no longer has any role in reconstruction? Of course not. They obviously will be consulted on a continuous basis. Everyone knows nothing can be

built unless there is security to prevent attacks on contractors and aid workers and to prevent sabotage to the projects themselves. We are fortunate to have a superb military there to provide that kind of security. But that is what the Defense Department should be doing, providing the security but not trying to oversee foreign aid projects. That is not what they are trained to do.

It is unfair to our men and women in the military to ask them to do that. It was a mistake in the first place when we asked them to do it. We should not repeat that. Let us not ask the Department of Defense to suddenly become the State Department, AID, and the general dispenser of foreign aid. They are so well trained to do the things they do. Let those who are trained to handle foreign aid and the projects of reconstruction be there.

It is also worth noting, when you look at the civil affairs units in the Defense Department, almost all of them are composed of National Guard and Reserve units. Ironically, to the extent you are going to use the military for the nation building we are doing in Iraq—we are doing nation building in Afghanistan, and Lord knows where else—these are the men and women in uniform who are best equipped for the nation building we are doing in Iraq.

So we either have to keep these National Guard and Reserve forces in Iraq indefinitely—and I think the majority of the Members of both parties here do not want to see that happen—or we have to get the State Department and USAID more involved in doing nation building. I favor the latter approach. That is what my amendment would do.

I do not think we should continue to rely on these National Guard and Reserve units to do the long-term development work that should be done by others. Let that be done by the Department of State and AID, and let the Department of Defense provide the security for those who are doing the reconstruction in Iraq.

Some might ask if the Secretary of State wants that authority, given what a thankless job it is becoming in Iraq. I do not know. If he gets the authority, I will offer him not congratulations but condolences.

I see my dear friend.

Mr. WARNER. Mr. President, might I answer my colleague's very insightful question as to what the Secretary of State has in mind.

I have just been in consultation with his office, upon learning of my distinguished colleague's amendment. Very shortly there will be a written communication coming to the leadership of the Senate expressing, without any equivocation, that he feels strongly that the Department of State, at this time, should not be given the responsibility. But there will come a time, I say to my distinguished colleague—an appropriate time, and perhaps without further interruption to your opening remarks—I could engage the Senator in a colloquy to discuss perhaps an alternative measure at some future time.

Basically, it would be after the Iraqi Government is in place and the United States would, at that time, indicate an individual to become the U.S. Ambassador, at which time there could be an orderly transition from the Department of Defense to the Department of State.

My concern, I say to my friend, is that it has taken Ambassador Bremer some 3 months now to gain the momentum he has. We have a critical issue before this body at the very moment of whether or not the additional funds will hopefully immediately be forthcoming. That decision will be finally made next week. I strongly support it, to continue that momentum. A shift at this time would result in loss of momentum.

I conclude my few remarks at this moment by saying, throughout the testimony and private discussions with Ambassador Bremer, which I am sure my colleague from Vermont has had, he has constantly said that the danger to the coalition forces—that danger being indelibly impressed on us every day with the announcement of a loss or an injury to members of the uniformed services, and indeed others—David Kay is, at this moment, before committees of the Congress. In conversations with me, he has expressed the danger to his operation daily by their transit down these motorways and otherwise.

The direct correlation of reducing the danger to our troops, to the Iraqi special survey group headed by David Kay, and to others performing NGO operations—this whole panoply of people—there is a direct correlation between the speed and the momentum that the Bremer operation has brought up to replace the infrastructure and the lessening of the personal risks to individuals.

Mr. LEAHY. Mr. President, the senior Senator from Virginia is not only one of the best friends I have in this place, and has been for the years that we have served together, but I also know he is one of the hardest working Members of the Senate.

As I mentioned earlier in my opening statement, I am not suggesting for a minute that Ambassador Bremer, for whom I have high regard, be replaced. I am simply saying that it is not a question of whether the Secretary of State should take this now or later; the fact is, this is his job. He should have been doing it from the beginning. We are not changing horses in midstream.

Incidentally, speaking of Mr. Kay and others, I also stated, prior to the Senator from Virginia coming to the floor, that, of course, the military would have to stay and provide the security so these people can continue to work. I am just saying, insofar as we are doing nation building, let it be done by the State Department, as we always have, and not think that somehow we can go solely as a military authority and then have this country suddenly, one day, become a democratic nation, and only then will we bring in the State Department to give aid.

I have looked at the plan. The plan said it was to give the Iraqi people the opportunity to realize President Bush's vision. We may want to ask them if that is exactly the vision they want. But be that as it may, this is not changing horses in midstream. We are getting on the right horse, in fact, the horse that has taken us across the stream for the last 50 years.

Every major postwar reconstruction effort since the Marshall plan has been under the auspices of the Secretary of State, not the Secretary of Defense: Afghanistan, Kosovo, East Timor, Bosnia, Cambodia. Even during the middle of the Vietnam war, economic aid was handled by AID.

I am thinking of an article on July 24, referring to an assessment by outside experts, commissioned by the Pentagon, who warned that the window of opportunity for postwar success is closing. The Philadelphia Inquirer reported that: After initial deals for reconstruction stalled, it was time for plan B but there was no plan B.

I would hope the plan B that was written on July 23 is not it. I have a plan B. It is called the Secretary of State. Put the Department of State in charge of the reconstruction. Not the military part, of course. The military is going to be there for some substantial period of time—we know this—but allow them to do the things they are good at. They are not trained, nor should they be, to become a governing power, to become nation builders.

Mr. WARNER. Mr. President, if I could probe my colleague, as I read this, it states very clearly:

Provided further, That beginning not later than 60 days after enactment of this Act, the Administrator of the Coalition Provisional Authority shall report to and be under the direct authority and foreign policy guidance of the Secretary of State.

As I indicated, the Secretary is very much opposed to this amendment. We will very shortly have that evidence before the Senate. But it is clear from the reading of this that the $21 billion which is before this body right now as a part of the 87—and it remains a part; that issue has been addressed—would now be transferred to the Department of State for, frankly, writing all the checks, working on the allocation of priorities, the coordination with the military structure under the Secretary of Defense and General Abizaid, the CENTCOM commander. The whole thing is lifted and put under the State Department in 60 days after this, should it be enacted. Am I not correct?

Mr. LEAHY. No, the Senator is not correct. The implication is that somehow my amendment would put everything under the State Department. We are being asked to provide over $80 billion. Roughly three-quarters of that goes to the Department of Defense. Nobody is asking anybody but the Department of Defense to handle it. We are

saying the $20 million of foreign aid—one of the largest foreign aid packages I have ever seen—the $20 billion of foreign aid that is brand new would be overseen by the State Department. We want to make sure that the Iraqis do not feel this is a long-term military operation.

People should know, my amendment doesn't stop the President from allocating and reallocating reconstruction funds to any agency, including Defense, but State would have oversight of that. It doesn't shut down the Coalition Provisional Authority. It doesn't require big changes there.

Mr. WARNER. Would the Senator be more explicit?

Mr. LEAHY. As I have said before, I am glad Ambassador Bremer is there. It doesn't micromanage the reconstruction effort. It doesn't create a disruption of any of the programs that are there. But it does say when we want to ask how these aid programs and reconstruction programs are going, we ask the questions of our State Department, the Department that has had this responsibility and expertise, and the Department that has always done this from the days of the Marshall plan on.

My friends keep saying, this is just like the Marshall plan. Well, there are some big differences. One, the Marshall plan didn't ask us to pick up the whole tab as this does. That was a dollar-for-dollar match. Some of it was in loans. It wasn't done immediately after the war. It took many hearings, hundreds of witnesses. And then working with the President, there was a congressional oversight committee that actually had input from both parties, both Republicans and Democrats, unlike the situation here with the 8 page plan that we were given two months late.

Mr. WARNER. Mr. President, if the Senator would enable me to bring to the attention of the Senate a communication at this point in time from the Department of State, it might be helpful. As I read the amendment, it is clear to me that Bremer would now report to the Secretary of State.

Mr. LEAHY. That is true.

Mr. WARNER. There is no provision that he continues a direct chain to the Secretary of Defense. That structure, from Bremer right on down through his organization, would now be reporting to the Secretary of State. Am I correct in that?

Mr. LEAHY. Yes, but it does not shut down or require changes in the central command. It doesn't require any military to report to the Secretary of State.

Mr. WARNER. The Senator has made that eminently clear. I think right now we are looking at the coalition operation under Bremer now being transferred in its entirety and reporting to the Secretary of State. That organization, under Bremer at the present time, composes, indeed, contributions of a number of personnel from the Departments of State and Defense. It is sort of a coalition within itself of our Federal departments and agencies. Our coalition partners, primarily Great Britain, are integral participants.

How would they feel if suddenly they awakened and determined that no longer does their deputy to Bremer from Great Britain report to the Secretary of State? This is a very significant and major change that our distinguished colleague is proposing.

In response, the Department of State, through its Assistant Secretary of Legislative Affairs, addressed our colleagues in the Senate by saying the following:

Thank you for the opportunity to comment on Senator Leahy's proposed amendment to the FY 2004 Supplemental that would transfer control of the Coalition Provisional Authority (CPA) from the Department of Defense to the Department of State. While we appreciate Senator LEAHY's confidence in the State Department, we are opposed to the amendment.

That is very clear and unequivocal.

The decision to establish control of Iraq's reconstruction through the Department of Defense was made because military operations were and are ongoing in Iraq. The immediate objective was to establish a secure and safe environment in Iraq. Restoring basic services and creating conditions for economic growth could not take place until this environment was established.

For unity of effort and command, it was judged—and this judgment was from the President on down—

the Department of Defense would be the most appropriate department in which to place CPA. The State Department fully expects to resume control of traditional development efforts in Iraq once the security situation is fully stabilized and an elected government is in place.

Thank you again for the opportunity to comment on Senator Leahy's amendment. We will be pleased to provide any additional information you might require.

I ask unanimous consent that this letter be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

U. S. DEPARTMENT OF STATE,
Washington, DC.

DEAR CHAIRMAN MCCONNELL: Thank you for the opportunity to comment on Senator Leahy's proposed amendment to the FY 2004 Supplemental that would transfer control of the Coalition Provisional Authority (CPA) from the Department of Defense to the Department of State. While we appreciate Senator Leahy's confidence in the State Department, we are opposed to the amendment.

The decision to establish control of Iraq's reconstruction through the Department of Defense was made because military operations were and are ongoing in Iraq. The immediate objective was to establish a secure and safe environment in Iraq. Restoring basic services and creating conditions for economic growth could not take place until this environment was established.

For unity of effort and command, it was judged the Department of Defense would be the most appropriate department in which to place the CPA. The State Department fully expects to resume control of traditional development efforts in Iraq once the security situation is fully stabilized and an elected government is in place.

Thank you again for the opportunity to comment on Senator Leahy's amendment. We will be pleased to provide any additional information you might require.

Sincerely,

PAUL V. KELLY,
Assistant Secretary, Legislative Affairs.

Mr. LEAHY. Mr. President, I also see what the National Security Adviser said, and I quote:

The President must remember that the military is a special instrument. It is lethal, and it is meant to be. It is not a civilian police force. It is not a political referee. And it is most certainly not designed to build a civilian society.

Dr. Rice said that.

The Washington Post reports that the diplomats on Ambassador Bremer's staff in Baghdad report directly to him, not to Washington, which is true. The Secretary of State, Colin Powell, has told the press he has to rely on newspapers and the diplomatic reports of other nations to keep abreast of developments in Iraq. Maybe they don't like the job, but that is what the State Department is designed to do. I have had times when somebody said I had to sit in this hearing for 4 hours because I was either chairman or ranking member of the committee, and I said, I don't want to, I would rather go to Vermont, or I would rather go hunting on my farm, or do other things. But you know what? It is my job, it is a job I was elected to do, and I have done it.

I am sorry if the State Department feels they don't need to do their job. Maybe they have too many people. Maybe we are spending money we don't need to there. I mean, this is what they do in Afghanistan. This is the role they have played in every post-war situation since the Marshall plan.

I ask, what is so different about Iraq? Suddenly, we are breaking 50 years of precedent and they don't want to do what they are supposed to do. I am worried, why don't they want to do their job? Are they concerned that they could not do it better than it is being done now? I would hope they could, or else we are spending an awful lot of money at the State Department that we don't need to spend.

Mr. WARNER. Mr. President, in response to my colleague, the Marshall plan is, in clear terms, a precedent for what the policy decisions of our country are, as embraced in the request for this $21 billion and in the future. But there is a clear distinction. The Marshall plan came in years after the fighting had stopped. As you and I are now in this colloquy on the floor of the Senate, that fighting is going on right now—hundreds of thousands of coalition forces—over a hundred thousand—and many civilians are subjected to the constant threat by this polyglot of former Baathists, former associates of Saddam Hussein, terrorists are moving in.

This is a tough situation and there is daily communication between Ambassador Bremer and the military. They have worked side by side. In fact, you visited there, as I have. Their offices are just across the hall from one another.

(Mr. CORNYN assumed the Chair.)

Mr. LEAHY. If I may respond on that, as I have stated over and over again—and I will state it again for my good friend, who I refer to as ''my Senator'' when I am away from Vermont because I live part of the time in his beautiful Commonwealth. We are not asking the military to not do the job they do, and do well; we are not asking that they stop providing security or to not continue to hunt for Saddam Hussein or those connected with him. What I am saying is that they ought to be freed up to do that job. But they should not be doing the nation building the administration wants, which is our President's vision for Iraq. Let's give that job back to the people who are trained to do it.

I know the distinguished chairman of the Armed Services Committee does not want to see our military there forever as an occupying force. He and I totally agree on that. He and I totally agree that our military is the finest in the world, and they have done extraordinarily well there. I think we have them stretched pretty thin in a lot of areas.

I am saying, let the military do the military work; let the State Department do the foreign aid work; and if the State Department is unwilling to do the kinds of things they are trained for, which they tell us year after year they need hundreds of millions of dollars more to do, then maybe we don't need them.

Mr. WARNER. Mr. President, if I might address the comment about letting the State Department do its traditional responsibilities, I am referring to testimony before the House of Representatives on September 30, when the Deputy Secretary of State, Secretary Armitage, appeared. He made the following observations. He said that Ambassador Bremer and Secretary Powell speak to each other on the phone occasionally but they e-mail each other if not every day, pretty close to that.

He was asked what the role is in postwar Iraq. He said: We have 42 officers there now—42 State Department officers. I don't want to make light of it. Both Ambassador Bremer and his second, Clay McManaway, are both State officers. The guy who is running the show with the railroad is Pat Kennedy, one of the administration officers. So the State Department is heavily involved at the current time. The other officers from the Department of State are spread out not only in I&L but we have Mike Felia down in the southeastern region working with the Shia. We have others with the Kurds.

Ambassador Bremer has asked us to come forward with another approximately 60 officers and that we will be able to fill many more of these provinces with State Department officers, the high majority of which will be there with three or four language-speaking capabilities.

I say to my colleague, there is the closest of relationships with the Secretaries of State and Defense and directly between the Secretary of State and Ambassador Bremer. As he points out very clearly here, Deputy Secretary of State Armitage and the principal deputy to Ambassador Bremer are now officers on loan from the Secretary of State to the CPA. I urge my colleagues who are following this debate to think for themselves about the consequences of the loss of reconstruction that this would entail. You cannot make the shift in that point of time, and, to me, it would bring a greater threat personally and endangerment to the life and limb of not only the coalition forces in uniform but thousands of civilians who are working in various capacities to bring about the goals of peace and turning over this nation to the Iraqi people.

Mr. LEAHY. Mr. President, I am getting the impression that my distinguished friend, the senior Senator from Virginia, is not in agreement with my amendment and would like to keep the status quo, at least for now.

I respond that the current structure has not worked well. Between the two of us, we have a half century of listening to people testify. The Pentagon has said over and over again—certainly in a lot of the hearings I have had and I am sure that the Senator from Virginia has had—that they are not a foreign aid agency. The Pentagon is not a foreign aid agency.

I think the experience of the past 5 months in Iraq confirms that. They came in there without a plan, a post-war plan. I believe they miscalculated terribly and they put our soldiers in a vulnerable position.

I yield to nobody in this body in my admiration of the men and women who are in Iraq, the members of our military, but the administration put them in an untenable position. They have to maintain order, fight terrorists, build schools and sewer systems, and do all that simultaneously. Let the military and the Secretary of Defense focus on fighting the war and leave foreign aid to the agencies with the expertise.

Just this week, one of our national news magazines said:

> On the ground, the Coalition Provisional Authority, charged with actually running Iraq until the Iraqis can take over, is the source of increasing ridicule . . . So there they are, sitting in their palace: 800 people, 17 of whom speak Arabic, one is an expert on Iraq. Living in this cocoon. Writing papers. ''It's absurd,'' says one dissident Pentagon official. He exaggerates, but not by much. Most of the senior civilian staff are not technical experts. . . .

Time magazine says Joe Fillmore, a contract translator with the 4th Infantry Division in Tikrit, agrees that resentment is deep. ''Things may look better on the surface,'' he says, ''but there is growing frustration with the occupation. The town is dividing into two parts: those who hate us, and those who don't mind us, but want us to go.''

Whether one was for or against war, we are now there. But when we are asked to buy enormously expensive items, to spend more money to build a hospital in Iraq than we would spend on a hospital in Vermont, when we are asked to spend more money on telecommunications in Iraq than we are willing to spend in many states in the United States, when we are asked to spend more money on the electrical infrastructure in Iraq than we are willing to spend here, when we are asked to spend more money to put people back to work in Iraq than we are willing to spend in the United States, when we are asked to spend more money for police and security and prisons in Iraq than we are willing to spend where it is needed in the United States, when we are asked to spend more money for vehicles in Iraq than we spend for vehicles in the United States, I think it is fair we ask is this right? Is this necessary? Maybe it is time to put the right people in charge.

Mr. WARNER. Mr. President, if I might again bring to my colleague's attention the momentum that is presently in the CPA and its achievements. CPA is providing funds through military commanders—I want to point that out—military commanders in the field, coalition military commanders to fund projects at the village and municipal level. Approximately $24 million has been spent on over 6,200 projects to date.

Health projects: Saddam Hussein budgeted $13 million for health care in 2002, approximately 50 cents per person. For the second half of 2003, CPA allocated $211 million—I repeat, $211 million—a 3,200 percent increase in health care.

On April 9, only 30 percent of Iraqi hospitals were functioning. CPA is bringing the health care system back to life. Now all 240 hospitals in Iraq are up and running. The CPA has wiped away the old corrupt system for distributing medical supplies and pharmaceuticals. In the past 90 days, 9,000 tons of medical supplies have been delivered, an increase of 700 percent. Because of the CPA, Iraqi children have received 22 million doses of vaccine to cover over 4 million children and nearly a million pregnant women.

Education: Saddam starved the country's schools of cash for more than 20 years. Children were taught pro-regime slogans in classrooms little better than livestock sheds. Enrollment in some areas had dropped to 50 percent of eligible children.

CPA is refurbishing more than 1,000 schools. The schools will have new plumbing instead of raw sewage in the playgrounds, fresh paint, blackboards, pencils, and teaching equipment.

Justice system: Nationwide, 90 percent of the courts are up and running. Criminal courts in Baghdad reopened in May. A central criminal court made up of specially vetted judges and prosecutors has been established to try cases in public. The first trial was held August 25.

I could go on and on. I ask unanimous consent to print these success stories in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Coalition Provisional Authority]

IRAQ SUCCESS STORIES

Reconstruction Projects

CPA is providing funds through military commanders in the field to fund projects at the village and municipal level. Approximately $24 million has been spent on over 6,200 projects to date.

Health Projects

Saddam Hussein budgeted $13 million for healthcare in 2002, approximately 50 cents per person. For the second half of 2003, CPA allocated $211 million, a 3200% increase.

On April 9th only 30% of Iraqi hospitals were functioning. CPA is bringing the healthcare system back to life. Now, all 240 hospitals in Iraq are up and running.

The CPA has wiped away the old corrupt system for distributing medical supplies and pharmaceuticals. In the past 90 days 9000 tons of medical supplies have been delivered; an increase of 700%.

Because of the CPA, Iraqi children have received 22.3 million doses of vaccine to cover over 4 million children and nearly a million pregnant women.

Education

Saddam starved the country's schools of cash for more than 20 years. Children were taught pro-regime slogans in classrooms little better than livestock sheds. Enrollment in some areas had dropped to 50% of eligible children.

The CPA is refurbishing more than 1000 schools. The schools will have new plumbing instead of raw sewage in the playgrounds, fresh paint, blackboards, pencils, and teaching equipment.

Justice System

Nationwide, 90% of courts are up and running. Criminal courts in Baghdad re-opened in May.

A Central Criminal Court made up of specially vetted judges and prosecutors, has been established to try cases in public. The first trial was held on August 25th.

Odious legal provisions inconsistent with fundamental human rights have been suspended. Criminal defendants now have the right to defense counsel at all stages of proceedings, the right against self-incrimination, the right to be informed of these rights, and the exclusion of evidence obtained by torture.

Eight Supreme Court Justices wrongfully removed by Saddam Hussein have been reinstated.

Judge Dara Noor al-Din, who was imprisoned for holding one of Saddam's decrees unconstitutional, is now a member of the Governing Council, in addition to his judicial duties. He was never a Ba'athist.

Judge Medhat Mahmood, was never a Ba'athist, has been named Chief Justice of the Supreme Court.

Mr. WARNER. There is enormous momentum.

Mr. LEAHY. Mr. President, when I hear this glowing description, I wonder why the administration is asking for another $20 billion. I wish most of the States in the United States were doing as well as what the Senator from Virginia has described.

If they are doing that well, maybe we should give the $20 billion to States in the United States that are not doing nearly as well and could probably use the money.

I am glad to hear the hospitals are all operating again. Obviously, from a humanitarian point of view that is important progress. I hope the Iraqis realize they can go to any hospital they want now and they will receive the help they need. If that is true, why do we need to spend another $150 million for another hospital? Rural hospitals throughout the 50 States of the United States cannot say that. I know a lot of places in the 50 States in the United States about which we cannot give the kind of glowing report the Senator from Virginia has given about Iraq.

Keep in mind, I am not asking for somebody to walk in there tomorrow and take over. But I would hope that within the next two months, with the 800 people in the palace over there, we might find more than 17 who can speak Arabic. That, I think, would be the kind of expertise the State Department could bring.

I hope we will have more than one expert on Iraq, and I hope we will tell the Iraqi people that we are as interested in them building their country following their vision and not, in almost a condescending way, saying we want them to have the opportunity to build a country that fits the vision our President has for them. After all, we are talking about a civilization that goes back long before this country was even discovered.

Mr. WARNER. Mr. President, I recognize that important bit of history. As I say to my friend of a quarter of century, we have had the privilege of serving here—and I see the distinguished acting minority leader on the floor—it would be the intention of the Senator from Virginia to move to table, but I first would like to hear an expression perhaps from others who might like to address the amendment.

Mr. REID. If the Senator from Virginia will yield.

Mr. LEAHY. I have the floor.

Mr. REID. If the Senator from Vermont will yield, I don't know how much more time the Senator from Vermont has. We have a couple other Senators who wish to speak. Certainly Senator LEAHY has no desire to ride this out. We have a number of amendments lined up and ready to go as soon as this is finished. The Senator from Vermont is the best person to answer that question.

Mr. LEAHY. Mr. President, I respond to the distinguished Senator from Nevada, we have had a good colloquy with the distinguished senior Senator from Virginia, which is not unexpected because the distinguished Senator from Virginia is one of the most knowledgeable Members of the Senate, as well as being a dear and close friend. I think we have probably proved, for those who are watching, the edification of having both sides here.

The Senator from Virginia, though I control the floor—I have yielded to him whenever he wanted.

Mr. WARNER. Mr. President, every courtesy has been extended, and I might add that I am in consultation with the distinguished chairman of the Appropriations Committee on this matter, who likewise is presently on the Senate floor.

Mr. LEAHY. I have had time to say what I am going to say. I am also apparently having incipient laryngitis, which is probably as crippling an illness as any Member of the Senate could have.

Mr. WARNER. Mr. President, I do not detect it. I think the Senator is standing there with full vigor. I believe we have pretty well covered the major issues.

Mr. LEAHY. Full vigor everywhere except for my tonsils, I would say to my friend from Virginia.

The Senator from Virginia has the right to move to table, but this is an important issue, and I would hope that he would show his usual courtesy and withhold until people have had a chance to speak.

I yield the floor.

Mr. STEVENS. Before the Senator leaves, Mr. President, could we explore a time agreement on the amendment?

Mr. LEAHY. I ask the Senator from Alaska, could I yield to the Senator from Nevada for that purpose? Whatever is agreeable, I am perfectly willing to do.

Mr. STEVENS. Mr. President, we have a Senator's agreement that we are going from side to side. We have another amendment ready to go. We would be happy to proceed. The Senator from Colorado wants to speak for 10 minutes on the bill itself, but I should think we could get a time agreement.

Mr. LEAHY. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. STEVENS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. STEVENS. Mr. President, after having consultation with the interested Senators, I make the following unanimous consent request: I ask unanimous consent that the Senator from Colorado, Mr. ALLARD, have 15 minutes; the Senator from North Dakota, Mr. DORGAN, have 2 minutes; Senator LEAHY have 5 minutes; the distinguished minority leader have 10 minutes; Senator BIDEN have 10 minutes; and there be 25 minutes under my control to be allocated to interested Senators on this side, if any, and that there be a vote in relation to the Leahy amendment, with no amendments being in order prior to the vote.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

The Senator from Colorado.

Mr. ALLARD. Mr. President, I understand our side is going to move to table the Leahy amendment, and I do support tabling the Leahy amendment. From what I have been able to observe,

I think things are going well in Iraq. Certainly, I have no qualms with the way the State Department and the Defense Department are working together. I do not think we ought to upset the apple cart when things are moving in the right direction.

I want to take a few moments to talk about the President's supplemental request in total. I ask my colleagues for quick action on the underlying bill. The reasons for quick action are simple. If we want to see a reduction in the number of soldiers in Iraq, we need to fully fund this request. If we want to improve the security in Iraq, we must approve this request. If we want a Democratic Iraq, governed by Iraqis, we must approve this request.

No one in this body on either side of the aisle would deny we need additional operational and procurement funds for our military. We all know that. Yet there is a great controversy over the reconstruction funds which in the long-term could be just as important to the safety of the troops as the additional operation and procurement funds.

Our troops will benefit from the additional operational funds that are requested in the $87 billion. My view is that if we want to see our forces out of Iraq quickly, we need to have those operational funds because they are essential to moving ahead with Iraq becoming self-sufficient, with Iraq being able to defend itself and being able to assume the responsibilities the U.S. military right now is assuming.

My point is that not only are the Iraqis beneficiaries, but our soldiers over in Iraq are beneficiaries, and they are beneficiaries for the reason it is going to be an opportunity for them to move out quicker and get home quicker. That is what we all want to see. Our ability to protect the men and women of the U.S. military is at stake.

Since the beginning of hostilities last February, there have been 19 soldiers from Colorado's Fort Carson and five other Coloradans who have died in Iraq. These men and women have paid the ultimate sacrifice in pursuit of the freedoms we often take for granted. I would be dishonoring the sacrifice these brave Americans have made and failing to protect those who continue to serve in Iraq if I did not support both the military funding portion of the supplemental and the reconstruction funding.

While the $20 billion in reconstruction funds will not end the guerilla attacks on our troops, it will make a difference. Iraq is a dangerous country, and as long as American troops are on the ground there, they will be at risk, as any American who may be in that country. However, the fact remains that the more we repair the old wounds of the Hussein regime, the safer our troops will be in Iraq. Specifically, the money we spend on upgrading the water of Iraq and sanitation services, the oil infrastructure rehabilitation, and the healthcare and education of the Iraqi people will have a direct impact on the safety of our troops.

Improving the social conditions of the Iraqi people will reduce hostility and ease the sense of desperation many Iraqis have felt since the fall of Saddam Hussein. Moreover, this funding will give Iraqis hope and demonstrate our commitment to not only rid Iraq of terrorists, but also improve the lives of ordinary Iraqis.

Freedom cannot be bought on the cheap. And, as Paul Bremer testified last week, the Coalition Provisional Authority's seven-step program towards Iraqi self-governance hinges on the basic needs of the Iraqis being fulfilled. Without it, democracy will fail. This cannot be allowed to happen.

Think back about what has been mentioned before about reconstruction after World War II and how we all realized after World War I that we had troops who were waiting to go home, everybody was excited to go home, but nobody stayed around to help stabilize the countries we defeated during World War I. Consequently, events evolved and we were into World War II. I think we learned our lesson, and that is that there needs to be a reconstruction period. So we had the Marshall plan put into effect. I think we need to not forget that lesson today if we want to see Iraq be a permanent democracy in the Middle East.

Perhaps of most importance to our troops in Iraq is the efforts to reconstitute the Iraqi Army and expand the civil police force. The money in the supplemental would help establish 27 battalions for the Iraqi Army and a police force of about 80,000 in the next 12 to 18 months.

Let me stress how important these efforts are. To have Iraqi patrols policing their own people will allow a safer environment for our soldiers and show the Iraqi people that we are not occupiers, and that Iraq is their country and their responsibility. In fact, the commander of Central Command, General Abizaid, testified before the Senate Armed Services Committee that the most important part of the supplemental is these security funds. I quote General Abizaid:

> . . . we can speed up the training of the Iraqi Army—instead of taking 2 years, take 1, and we can't do that without more money.

The general goes on to state:

> . . . every month that goes by where we don't start those security projects is a month longer before those guys go out and potentially can relieve our troops of some of their duties.

If the combatant commander with responsibility for Iraq believes reconstruction efforts and the security of American soldiers is linked, we should certainly heed his advice.

I think the additional point has been made in many hours of testimony before the Armed Services Committee that our intelligence will improve dramatically the more we are able to incorporate the Iraqi police force and their assistance in maintaining domestic stability in Iraq.

The issue has been also broached about making the reconstruction funds a loan to the already impoverished nation. I object to this idea for two important reasons. First, there are those in the United States, and many more abroad, who protested the idea of going to war with Iraq. A large majority of these critics believed this was a war for oil. They believed our insatiable need for fuel was driving us toward an occupation of Iraq so we could control its oil fields. I am not going to outline why this assumption was flawed in the first place, because you only have to look at the U.N. mandates the Hussein regime ignored and the mass graves of his murdered people. This is an absurd notion but not one we can afford to ignore.

However, if we ask for a loan, where will Iraq come up with the money? Nineteen billion is what has been estimated in their oil fields when they get up in production, and when they have a $20 billion loan, that doesn't even service the interest on that loan. How will it look for the United States when we ask the Iraqis to pump their crude to pay us back for the money we loaned them? Perception is important for us in the Middle East and we cannot afford to have an ''oil motive'' attached to our efforts to bring democracy to the region.

Another concern would be the example set for the other countries of the world that might contribute to the reconstruction effort. Iraq already owes $200 billion to Russia and France and Germany and others. Are we to ask them to forgive their debt and then demand payment for our generosity?

Our negotiators need leverage when they ask for reconstruction funds from the rest of the world. Our leverage would be nullified if the proposed grant to Iraq changes to a loan. Again, perception of asking for help for a burgeoning democracy in the Middle East would be muddied if we have an IOU in our back pocket.

A few weeks ago the Chairman of the Joint Chiefs, General Myers, testified before the Armed Services Committee and remarked that our battle in Afghanistan and Iraq is a battle of wills. He stated:

> We are going to win as long as we have the continuing will of the American people, and for that matter, freedom loving people everywhere.

This supplemental request is a measure of our will, a measure of our commitment to the Iraqi people. Terrorist organizations such as al-Qaida and state sponsors of terrorism like the former Hussein regime have doubted America's commitment in the past. Are we prepared to risk additional attacks against our troops if we fail to assist in the reconstruction of Iraq? Are we prepared to say to the people of Iraq they are on their own? Are we prepared to stay the course?

We must act quickly, we must act decisively, and we must pass this funding as requested by the President. The

United States must continue to show leadership in the world as we have since our inception. We must not allow our support of democracy and freedom to be compromised.

Last year, more than three-quarters of this body voted to support going to war with Iraq with the understanding we would not stop until we were victorious. We are not finished yet. More needs to be done. I ask my colleagues for quick approval of the supplemental funds for the sake of the security of the Iraqi people and the safety of our troops on the ground.

I yield the floor.

AMENDMENT NO. 1802

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. DORGAN. This afternoon the Senate is taking action to solve a problem for our soldiers serving in Iraq. Senator COLEMAN, myself, Senator STEVENS, and others have offered an amendment that deals with the cost of travel soldiers experience when they are going on a 15-day leave from the country of Iraq.

The life of a soldier is a heavy burden—in harm's way, away from home for long periods of time. It is also a heavy burden for their families. The decision by the Pentagon to provide a 15-day leave for those soldiers who are serving in Iraq to be able to come home to visit their families is a wonderful decision. It is the right thing to do.

But there has been a bureaucratic snag in this with respect to some rules that have said the soldiers on this leave will be dropped off at some central points in the U.S.—Baltimore, BWI Airport, Los Angeles—and then they must buy their own airplane ticket back to their home base. That is not right nor is it fair.

The amendment today says to those soldiers your travel will be covered, leaving Iraq to this country, all the way back to your home base. That is the right thing to do.

This amendment will be welcome news to the soldiers and welcome news to their families. This amendment is one small way for this country to continue to say thank you to those who serve our country.

Once again, I don't think it was ever intended that a soldier, asked to serve in the country of Iraq and then given a 15-day leave, should have to pay for part of the travel to get back home. Many of these soldiers can't afford it. They are living on soldier pay. They and their families very much look forward to these 15 days that will reunite them once again, and they ought not have to be burdened by having to buy an airplane ticket from Baltimore or Los Angeles. After all, that wasn't their point of departure. They left home to serve this country in Iraq and this country ought to say to them, for this furlough, for this opportunity to go back to your family, we will pay for the ticket back to your home.

That is the obligation of this country. This Congress on a bipartisan basis this afternoon said to those soldiers, Thank you. We are pleased to fix this problem—a solution that I believe is going to be very welcome news to the U.S. soldiers and their families.

I yield the floor. I suggest the absence of a quorum, and I ask unanimous consent that the time running on the quorum call be counted equally against both sides.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. STEVENS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DASCHLE. Mr. President, I rise in strong support of the Leahy amendment.

The amendment is very straightforward. It puts the State Department in charge of reconstruction of Iraq. It says that we ought to relieve our military of the burden of running this nationbuilding program, and we ought to put it in the hands of the U.S. Government agency that has successfully run such programs for decades.

The President recognized the wisdom of such a decision last fall when he directed the State Department to conduct its year-long study called ''The Future of Iraq.'' The study apparently cost $5 million. It convened countless meetings with independent experts on Iraq and on post-conflict reconstruction. And, unfortunately, the study's findings were completely ignored.

According to a remarkable story in this week's Newsweek, when it came time to send the reconstruction team into Iraq, Secretary Rumsfeld ordered the State Department expert who had spent the previous year preparing the United States Government for post-Saddam Iraq to stay home. Apparently, his absence meant something. Another member of the reconstruction team who did go to Iraq came home about a month later and wrote a remarkable article for the Washington Post. He offered a series of stories about his time in Iraq to demonstrate ''how flawed policy and incompetent administration have marred the follow-up to the brilliant military campaign to destroy Saddam Hussein's regime.''

Unfortunately, the civilian leadership continues to rely on overly rosey scenarios and unrealistic plans while the risk to our troops grows.

Last week, we were presented a plan by Ambassador Bremer that was supposed to set everything right in the reconstruction effort. His plan lays out five security goals—which are to be completed by October. Let me walk through just three of them.

The Bremer plan will ''locate, secure, and eliminate WMD capability.'' Yet, today the lead man on the search for weapons of mass destruction was to brief Congress on his efforts to date. According to press reports, he will report that he has not found any unconventional weapons.

The Bremer plan will also ''eliminate munitions caches, unexploded ordinance and excess military equipment.'' Yet the New York Times reported last weekend that 650,000 tons of ammunition remains at thousands of sites used by the former Iraqi security forces, and that much of it has not been secured and will take years to destroy.

The Bremer plan will also ''defeat internal armed threats'' by October. Just today in Iraq, our commanding general on the ground in Iraq, said that our troops are facing increasingly sophisticated attacks and it would take years before Iraq could maintain internal security without backup.

The Leahy amendment simply says that we have had enough of unrealistic plans and inexperienced planners. It says we are not comfortable that our troops—overstretched and at risk—are being forced to lead the nationbuilding effort in Iraq. It says what every independent assessment of our Iraq effort has urged us to do: put the experienced reconstruction experts at the State Department—not our military—in charge of nationbuilding.

I urge my colleagues to support the Leahy amendment, and I yield the floor.

Mr. STEVENS. Mr. President, I am informed it will now be possible to yield back all the time on the Leahy amendment. The distinguished Senator from Vermont is here in the Chamber.

I yield any remaining time on our side on the Leahy amendment.

Mr. LEAHY. I yield our time.

Mr. STEVENS. Mr. President, I move to table the Leahy amendment and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. DASCHLE. Mr. President, I would like to note the absence of a quorum so that we can just finalize some comments before we make an announcement about the remainder of the evening.

Mr. STEVENS. Mr. President, it would be my purpose to try to see if we could have a specific time on this vote.

Mr. DASCHLE. Six o'clock.

Mr. STEVENS. Six o'clock?

Mr. President, I ask unanimous consent that this vote that has just been ordered occur at 6 p.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. STEVENS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. STEVENS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. STEVENS. Mr. President, in just a minute we will start the vote on the

Leahy amendment, but I want the Senate to be on notice following this amendment there will be a vote on a Federal judge. That will be announced during the period right after this vote.

UNANIMOUS CONSENT AGREEMENT—EXECUTIVE CALENDAR

Mr. FRIST. Mr. President, I ask unanimous consent following the scheduled vote, the Senate immediately proceed to executive session and to consecutive votes on the following nominations on today's Executive Calendar: Calendar Nos. 382, 383, 385, and 386.

I further ask unanimous consent that there be 2 minutes equally divided between the two leaders or their designees prior to each vote; further, that following the votes, the motions to reconsider be laid upon the table, the President be immediately notified of the Senate's action, and the Senate then return to legislative session.

Mr. DASCHLE. Reserving the right to object, I take just a moment to thank the distinguished ranking member of the Judiciary Committee. I know how strongly he feels—and I understand the reasons he feels this way because I share them—that these are very important matters that should not be relegated necessarily to voice votes. But he has, once again, demonstrated a real appreciation of Senators' schedules and his understanding of the need for other Senators to offer amendments on this very critical bill we are dealing with. And in order to accommodate Senators who have amendments to offer, once again, he has agreed with my request that we do a rollcall on the first vote and then voice votes on the other ones.

So I just want to publicly acknowledge his cooperation and his assistance on this matter and thank him since he is currently in the Chamber. But I appreciate that.

I have no objection.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. LEAHY. Mr. President, with the indulgence of the two leaders, I appreciate very much what the Democratic leader has said. He and I, and the distinguished majority leader, and Senator HATCH, and others, want to move judges whenever we have consensus. And I think we have shown we have.

In the 17 months we were in charge of the Senate, when we were the majority, we confirmed 100 of President Bush's nominees to the Federal judiciary. In the 16 months the Republicans have been in control, this will make another 64 we have confirmed. So it is around 164 between the 2 parties. It is a record that has not been matched for years and years and years.

But I am happy to accommodate the two leaders. I know the problems the two leaders have. I would not wish them on anybody else. The two leaders have been trying to schedule things, so I am happy to try to accommodate them and all Members.

The PRESIDING OFFICER. Without objection, it is so ordered.

The majority leader.

Mr. FRIST. Mr. President, just for clarification, we will have the vote on the Leahy amendment now, followed by a rollcall vote on one of the judicial nominees, followed by a voice vote on the next three judicial nominees.

In the meantime, we will be discussing the schedule for later this evening. Amendments will be in order tonight. They will be laid down. We will talk about the voting schedule here shortly.

The PRESIDING OFFICER. The Democratic leader.

Mr. DASCHLE. Mr. President, before we go to the vote, I know our colleagues will be coming to the floor to vote on these two matters.

The distinguished majority leader and I have been talking about the schedule tomorrow. And without in any way preempting him and the decisions he will make about the schedule, there is a possibility that we will not be in session tomorrow but that we will have a window for Senators to offer amendments.

The only reason I say that now is if Senators would contemplate the offering of an amendment tomorrow, I would like them, at least on the Democratic side, to consult with Senator REID and myself during these votes so that we have an understanding of how many of those amendments might be offered. We would only have about a 2-hour window. But if Senators are interested, during these votes I hope they will come to either Senator REID or myself to discuss the queuing of those amendments and whether or not we will have an opportunity to consider them all.

So I hope we will use the time available to us for discussion of that. And we will have more to say about that sequencing once those votes have been completed.

VOTE ON AMENDMENT NO. 1803

The PRESIDING OFFICER. The question is on agreeing to the motion to table amendment No. 1803. The yeas and nays have been ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. REID. I announce that the Senator from Florida (Mr. GRAHAM) and the Senator from Connecticut (Mr. LIEBERMAN) are necessarily absent.

The PRESIDING OFFICER (Mr. CHAMBLISS). Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 56, nays 42, as follows:

[Rollcall Vote No. 374 Leg.]

YEAS—56

Alexander	Cochran	Enzi
Allard	Coleman	Fitzgerald
Allen	Collins	Frist
Bennett	Cornyn	Graham (SC)
Bond	Craig	Grassley
Brownback	Crapo	Gregg
Bunning	Dayton	Hagel
Burns	DeWine	Hatch
Campbell	Dole	Hollings
Chafee	Domenici	Hutchison
Chambliss	Ensign	Inhofe
Kyl	Nelson (NE)	Specter
Landrieu	Nickles	Stevens
Lott	Roberts	Sununu
Lugar	Santorum	Talent
McCain	Sessions	Thomas
McConnell	Shelby	Voinovich
Miller	Smith	Warner
Murkowski	Snowe	

NAYS—42

Akaka	Dodd	Leahy
Baucus	Dorgan	Levin
Bayh	Durbin	Lincoln
Biden	Edwards	Mikulski
Bingaman	Feingold	Murray
Boxer	Feinstein	Nelson (FL)
Breaux	Harkin	Pryor
Byrd	Inouye	Reed
Cantwell	Jeffords	Reid
Carper	Johnson	Rockefeller
Clinton	Kennedy	Sarbanes
Conrad	Kerry	Schumer
Corzine	Kohl	Stabenow
Daschle	Lautenberg	Wyden

NOT VOTING—2

Graham (FL) Lieberman

The motion was agreed to.

Mr. WARNER. I move to reconsider the vote.

Mr. STEVENS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

EXECUTIVE SESSION

NOMINATION OF WILLIAM Q. HAYES, OF CALIFORNIA, TO BE UNITED STATES DISTRICT JUDGE

The PRESIDING OFFICER. Under the previous order, the Senate will now proceed to executive session to consider Executive Calendar No. 382, which the clerk will report.

The legislative clerk read the nomination of William Q. Hayes, of California, to be United States District Judge for the Southern District of California.

The PRESIDING OFFICER. The Senator from Utah.

Mr. HATCH. Mr. President, William Q. Hayes is certainly qualified to be a Federal district court judge for the Southern District of California. I recommend to all our colleagues they support him. I believe everybody will be pleased with the service he will give.

I yield back the remainder of my time.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. LEAHY. Mr. President, I yield my time to the Senator from California.

The PRESIDING OFFICER. The Senator from California.

Mrs. BOXER. Mr. President, I thank Senator LEAHY and Senator HATCH. This is an excellent nominee for the Southern District Court of California, William Hayes.

I want to emphasize the excellent process that we have in place to select District Court nominees in California.

In a truly bipartisan fashion, the White House Counsel, Senator FEINSTEIN and I worked together to create four judicial advisory committees for

the State of California, one in each Federal judicial district in the State.

Each committee has a membership of six individuals: three appointed by the White House and three appointed jointly by Senator FEINSTEIN and me. Each member's vote counts equally, and a majority is necessary for recommendation of a candidate.

Mr. Hayes was reviewed by the Southern District Committee and strongly recommended for this position. I continue to support this bipartisan selection process and the high quality nominees it has produced.

Mr. Hayes had extensive civil experience as a private attorney before becoming a Federal prosecutor, rising to the position of head of the criminal division in the U.S. attorney's office in San Diego.

The southern district will benefit greatly from the exemplary services of Mr. Hayes, and I fully support confirmation of this nominee.

I wish to emphasize, once again, to my colleagues that we have a wonderful process in place in California to come up with these nominees for the district court. Senator FEINSTEIN and I have three members on the committee. The Bush administration has three members on the committee. It takes a majority vote. This means we are working together, and we have proven that we can come up with mainstream nominees for the district court. I urge an ''aye'' vote.

Mr. HATCH. Mr. President, I am pleased today to speak in support of William Q. Hayes, who has been nominated to the United States District Court for the Southern District of California.

Mr. Hayes received both his J.D. and M.B.A. from Syracuse University in 1983. Following his graduation, he spent a year in private practice until 1987, at which time he went to work for the United States Attorney's Office for the Southern District of California. He was eventually elevated to chief of the criminal division of that office in recognition of his exceptional legal abilities. Despite the demands of his career in public service, he has nevertheless found the time to teach at both the undergraduate and law school levels.

Mr. Hayes is an exceptional nominee who will be a fine addition to the Federal bench, and I urge my colleagues to join me in supporting his nomination.

I yield the floor.

Mr. STEVENS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. STEVENS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. STEVENS. There is one amendment that might still require a vote tonight. We think it will be worked out. So many people want to start this vote, I suggest we start it. If that amendment is worked out, there will be more votes tonight, but we should know before the rollcall is over. So I suggest we start the rollcall now.

The PRESIDING OFFICER. The question is, Will the Senate advise and consent to the nomination of William Q. Hayes, of California, to be United States District Judge for the Southern District of California?

Mr. BOND. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. REID. I announce that the Senator from Florida (Mr. GRAHAM) and the Senator from Connecticut (Mr. LIEBERMAN) are necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 98, nays 0, as follows:

[Rollcall Vote No. 375 Ex.]

YEAS—98

Akaka	Dodd	Lott
Alexander	Dole	Lugar
Allard	Domenici	McCain
Allen	Dorgan	McConnell
Baucus	Durbin	Mikulski
Bayh	Edwards	Miller
Bennett	Ensign	Murkowski
Biden	Enzi	Murray
Bingaman	Feingold	Nelson (FL)
Bond	Feinstein	Nelson (NE)
Boxer	Fitzgerald	Nickles
Breaux	Frist	Pryor
Brownback	Graham (SC)	Reed
Bunning	Grassley	Reid
Burns	Gregg	Roberts
Byrd	Hagel	Rockefeller
Campbell	Harkin	Santorum
Cantwell	Hatch	Sarbanes
Carper	Hollings	Schumer
Chafee	Hutchison	Sessions
Chambliss	Inhofe	Shelby
Clinton	Inouye	Smith
Cochran	Jeffords	Snowe
Coleman	Johnson	Specter
Collins	Kennedy	Stabenow
Conrad	Kerry	Stevens
Cornyn	Kohl	Sununu
Corzine	Kyl	Talent
Craig	Landrieu	Thomas
Crapo	Lautenberg	Voinovich
Daschle	Leahy	Warner
Dayton	Levin	Wyden
DeWine	Lincoln	

NOT VOTING—2

Graham (FL)	Lieberman

The nomination was confirmed.

Mr. STEVENS. Mr. President, I move to reconsider the vote, and I move to lay that motion on the table.

The motion to lay on the table was agreed to.

NOMINATION OF JOHN A. HOUSTON, OF CALIFORNIA, TO BE UNITED STATES DISTRICT JUDGE FOR THE SOUTHERN DISTRICT OF CALIFORNIA

The PRESIDING OFFICER. Under the previous order, the clerk will report the next nomination.

The legislative clerk read the nomination of John A. Houston, of California, to be United States District Judge for the Southern District of California.

The PRESIDING OFFICER. Under the previous order, there are 2 minutes of debate equally divided prior to the vote on the nomination.

Who yields time?

Mr. STEVENS. I yield all time on our side.

The PRESIDING OFFICER. Is anyone seeking time?

All time has expired.

The question is, Will the Senate advise and consent to the nomination of John A. Houston, of California, to be United States District Judge for the Southern District of California?

The nomination was confirmed.

Mr. STEVENS. Mr. President, I move to reconsider the vote, and I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. HATCH. Mr. President, I am pleased today to speak in support of John Houston, who has been confirmed to the United States District Court for the Southern District of California.

Judge Houston, a graduate of the University of Miami School of Law, has used his outstanding legal skills in public service. He first served in the United States Army Judge Advocate General Corps and then in various positions at the U.S. Attorney's Office for the Southern District of California before his appointment in 1998 as a Federal magistrate judge, the position in which he currently serves.

Judge Houston has won many accolades for his legal skills, including awards from the National Association of Black Customs Enforcement Officers and from the Organized Crime Drug Enforcement Task Force for Outstanding Contributions. He was also presented with the Director's Award for Superior Performance in Asset Forfeiture by then-Attorney General Janet Reno.

In addition to his judicial responsibilities, Judge Houston finds time to participate in community programs that assist children in meeting educational and economic challenges. He has, for example, opened his courtroom to public school students to give them hands-on lessons in the judicial process. And he has served as a mentor to young African-American men who have excelled in high school to prepare them for college and beyond.

I applaud President Bush for his nomination of Judge Houston and am confident that he will serve on the bench with compassion, integrity and fairness.

Mr. HATCH. Mr. President, I am pleased today to speak in support of Robert Clive Jones, who has been confirmed to the United States District Court for the District of Nevada.

Before I go any further, I must tell you that Judge Jones is a fellow Cougar—a graduate of my alma mater, Brigham Young University. He then attended UCLA School of Law, where he graduated in the top 10 percent of his

class—a member of the Order of the Coif—and where he had been an associate editor of the UCLA Law Review.

Following his graduation from law school, Judge Jones clerked for the Ninth Circuit Judge J. Clifford Wallace. He then entered into private practice with the Las Vegas law firm of Albright and McGimsy, as an associate, specializing in tax law, real property, bankruptcy, and commercial law. He then worked at the law firm of Jones & Holt, where he was a partner.

In 1983, Judge Jones was appointed to the U.S. Bankruptcy Court for the District of Nevada, where he currently serves. He simultaneously served as a member of a three-judge panel for the U.S. Bankruptcy Appellate Panel of the Ninth Circuit from 1986 until 1999.

In addition to his judicial responsibilities, Judge Jones participates in the promotion of State bar pro bono bankruptcy services, which include educating the public on bankruptcy law. He also finds time to volunteer his services to such charitable organizations as the American Cancer Society and Opportunity Village, a group that assists the mentally disabled.

I applaud President Bush for his nomination of Judge Jones and am confident he will continue to be an asset on the Federal bench.

Mrs. BOXER. Mr. President, I am pleased to offer my support for the nominee for the Southern District Court of California, John Houston.

I wish to emphasize the excellent process that we have in place to select district court nominees in California.

In a truly bipartisan fashion, the White House Counsel, Senator FEINSTEIN and I worked together to create four judicial advisory committees for the State of California, one in each federal judicial district in the state.

Each committee has a membership of six individuals: three appointed by the White House, and three appointed jointly by Senator FEINSTEIN and me. Each member's vote counts equally, and a majority is necessary for recommendation of a candidate.

This nominee was reviewed by the Southern District Committee and strongly recommended for this position. I continue to support this bipartisan selection process and the high quality nominees it has produced.

Judge Houston had extensive experience as a federal prosecutor before his appointment as a magistrate judge in San Diego.

I was delighted to meet Judge Houston and his family during his Judiciary Committee hearing in September and wish them all the very best.

The Southern District will benefit greatly from the exemplary services of Judge Houston, and I fully support confirmation of this nominee.

NOMINATION OF ROBERT CLIVE JONES, OF NEVADA, TO BE UNITED STATES DISTRICT JUDGE FOR THE DISTRICT OF NEVADA

The PRESIDING OFFICER. Under the previous order, the clerk will report the next nomination.

The legislative clerk read the legislation of Robert Clive Jones, of Nevada, to be United States District Judge for the District of Nevada.

The PRESIDING OFFICER. Under the previous order, there are now 2 minutes of debate equally divided prior to the vote on the nomination.

Who yields time?

Mr. STEVENS. Mr. President, I yield our time.

Mr. REID. I yield our time.

The PRESIDING OFFICER. All time has expired.

The question is, Will the Senate advise and consent to the nomination of Robert Clive Jones, of Nevada, to be United States District Judge for the District of Nevada?

The nomination was confirmed.

Mr. STEVENS. Mr. President, I move to reconsider the vote, and I move to lay that motion on the table.

The motion to lay on the table was agreed to.

NOMINATION OF PHILLIP S. FIGA, OF COLORADO, TO BE UNITED STATES DISTRICT JUDGE FOR THE DISTRICT OF COLORADO

The PRESIDING OFFICER. Under the previous order, the clerk will report the next nomination.

The legislative clerk read the nomination of Phillip S. Figa, of Colorado, to be United States District Judge for the District of Colorado.

The PRESIDING OFFICER. Under the previous order, there are now 2 minutes of debate equally divided prior to the vote on the nomination.

Who yields time?

Mr. ALLARD. Mr. President, I rise today on the occasion of the confirmation of Phil Figa to the United States District Court for the District of Colorado. I urge my colleagues to vote favorably on Figa's confirmation, a man who represents the very best our legal system has to offer. The Judiciary is a fundamental institution of our democracy; it is given neither force nor will, but merely judgment. Our Constitution dictates that the President shall nominate, and by and with the advice and consent of the Senate, shall appoint judges of the Federal Court. Today we can fulfill this obligation by confirming Mr. Figa. With further commitment to the country's founding principles, we can move toward fulfilling this commitment in regard to all outstanding vacancies. I want to thank Chairman HATCH and Senator LEAHY for the great speed with which Mr. Figa's nomination has moved through the Senate. Nominated by the President in June, this vote is a shining example of a process that can work when a spirit of bipartisanship triumphs. Chairman HATCH, your leadership is truly appreciated.

In light of recent terrorist attacks, it is readily apparent that we face a new age of global unrest, a world in which terror has replaced formal declarations of war as the major threat against freedom and democracy. A necessary component of providing justice to those who would do harm to our nation is to maintain an efficient court system—a court equipped with the personnel and resources that enable it to fulfill its role as a pillar of our constitutional system of governance. Swift punishment serves as a warning to tyranny and a deterrent to evil. By filling this vacancy, America continues to show its resolve in justice and law.

Mr. Figa's nomination arose after Judge Richard Matsch, who presided over the Oklahoma City bombing trial, went to senior status. Judge Matsch's departure leaves big shoes to fill. However, after months of background investigations and congressional inquiry, it is obvious that Phil Figa is the right person for the job.

For the past several years. I have had the opportunity to get to know Phil's wonderful family. His wife Candy, and their two children, Ben and Lizzie, were able to watch their father's job interview before the Senate Judiciary Committee last month. I admire the strong family values so apparent in every member of the Figa family—it was their continued support and encouragement that provided the strength and energy he needed in order to stand steadfast in pursuit of this most worthy endeavor. Together, the family enjoys the Colorado outdoors, spending free time hiking and biking in the mountains. According to Criminal defense lawyer Gary Lozow, Figa is a ''thoughtful and bright person who will make a good Federal judge and is mindful of the awesomeness of taking on that responsibility.''

The two major newspapers in my home State of Colorado agree. The Rocky Mountain News noted, Phil has achieved a rare balance in his life of family, law practice and community activities. The Denver Post, in an endorsement earlier this year, noted that Figa is a good, solid choice for the bench. The Post was encouraged by the fact that Figa's background is in civil litigation, which makes up a high percentage of the cases handled by Federal judges.

I am not the only one who believes that his keen intellect and temperament is ideal for the bench. In a letter dated June 10, 2003, Senator CAMPBELL and I wrote to the committee, ''Mr. Figa is highly qualified and will ably serve the people of the United States . . . (he) is well known throughout the Colorado legal community for his credibility, integrity, hard work and firm grasp of the law.'' His supporters hail from across party lines and include a variety of elected officials from

all levels of local, State, and Federal Governments. Of the many gracious comments I have heard about Phil, none characterize him better than a statement made by the managing partner at his firm. ''He's a very gracious fellow . . . a very likable person. He's a gentlemanly character.''

In Federalist Number 78, Alexander Hamilton wrote that Judges are the guardians of the constitution, ''The courts must declare the sense of the law; and if they should be disposed to exercise will instead of judgment, the consequence would equally be the substitution of their pleasure to that of the legislative body.''

Phil Figa is the guardian we need on the bench of the District Court for the District of Colorado. He will serve our Nation with the utmost of respect to our country and our constitution, and for this, I urge my colleagues to vote favorably on his confirmation.

Phillip Figa is somebody who has been reviewed by his peers in Colorado. He has been reviewed by the American Bar Association. He will be a very good individual for the bench and he has bipartisan support.

I yield the remainder of our time.

Mr. LEAHY. Mr. President, I yield the remainder of my time.

Mr. HATCH. Mr. President, I am pleased today to speak in support of Phillip Figa, who has been confirmed to the United States District Court for the District of Colorado.

Mr. Figa graduated from Cornell Law School in 1976. He then entered private practice with Sherman & Howard, where he primarily worked on commercial litigation, general business matters and municipal bond work.

In 1980, Mr. Figa became a partner at Burns & Figa, P.C. The firm maintained a boutique litigation practice emphasizing complex commercial litigation, especially antitrust, contract, real estate and other business-related disputes. Mr. Figa's practice also included representing lawyers and law firms in a variety of malpractice, ethics, attorney fee and disciplinary contexts. Since 1991, Mr. Figa has broadened his practice areas to include environmental litigation, trademark, oil and gas, health care and employment litigation. Mr. Figa has also served as an expert witness in the areas of legal ethics, standard of care of lawyers, conflicts of interest, malpractice and attorneys fees.

Mr. Figa enjoys the strong support of his home state senators, and I am pleased to join them in support of his nomination.

The PRESIDING OFFICER. All time has expired.

The question is, will the Senate advise and consent to the nomination of Phillip S. Figa, of Colorado, to be United States District Judge for the District of Colorado?

The nomination was confirmed.

Mr. STEVENS. Mr. President, I move to reconsider the vote, and I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. Under the previous order, the motions to reconsider are laid on the table, and the President shall be immediately notified of the Senate's action.

Mr. LEAHY. Mr. President, tonight we voted unanimously to confirm four district court nominees: William Hayes and John Houston to be U.S. District Judges for the Southern District of California, Robert Clive Jones to be a U.S. District Judge for the District of Nevada, and Phillip Figa to be a U.S. District Judge for the District of Colorado.

I commend the Republican leadership for finally bringing the nominations of William Hayes and John Houston of California to the floor. These two nominees will be filling vacancies on the busiest district court in the nation. The two seats which these men will fill have been created to address the growing crisis to the border court in San Diego—the federal court with the highest caseload per judge in the nation. It is too bad that the Republican leadership chose to move nominees from Oklahoma and Texas ahead of these California nominees who are desperately needed by the people of the Southern District of California due to the high caseload of that court.

I would also note that the way in which these nominees have come forth should be used as a model for the White House to emulate in other States and circuits. Senator DIANE FEINSTEIN and Senator BARBARA BOXER worked hard to establish a bipartisan commission in California which has recommended these individuals for the Southern District of California. I am happy to be able to join the two California Senators in confirming these two new judges.

At the conclusion of the confirmation votes tonight, a total of 64 judicial nominees of President Bush will be confirmed this year. Adding that to the 100 confirmations during 17 months of the Democratic majority in the Senate, 164 of President Bush's judicial nominees have been confirmed thus far. This number of confirmations, 164, is significantly higher than Republicans allowed by the third year of President Clinton's second term, the most recent presidential term, when they allowed 135 judicial nominees of that president to be appointed from 1997 through the end of 1999.

It also should be noted that when I became chair of the Judiciary Committee on July 10, 2001, the Democrats inherited 110 vacant seats in the Federal judiciary. In the 17 months of Democratic control, we significantly reduced the vacancy rate by confirming 100 of President Bush's judicial nominees. Today, there are only 41 vacancies on the Federal courts. This is the lowest level reached in 13 years. Had we not created 15 new seats this year, that number would be even lower—down to 26.

In just the past week, Senate Democrats have worked with the Republicans to confirm 10 district court judges and 1 circuit court judge. There are a lot of accusations of delay being thrown around but the truth is in these plain numbers. With more full-time Federal judges on the bench today than any other time in U.S. history, the confirmation process is moving forward and judges are being confirmed expeditiously with support from Democrats on the Judiciary Committee and in the full Senate.

LEGISLATIVE SESSION

The PRESIDING OFFICER. Under the previous order, the Senate will return to legislative session.

Mr. DASCHLE. Mr. President, we have been discussing the schedule. Everyone now has agreed Senator DODD will offer an amendment. It is our understanding he will require about 20 minutes to make his presentation. The manager of the bill wants 5 minutes to respond. It is our expectation a vote will occur on the Dodd amendment in about 25 minutes. My preference is to ask unanimous consent to lock it in so this does not get extended to 15 or 20 minutes more.

I propound that request, that a vote occur on or in relation to the Dodd amendment at 7:40.

Mr. WYDEN. My understanding is we will have the Dodd amendment, a vote on that, and right after that vote we have a vote on the Collins-Wyden amendment, which we hope will go on voice.

Mr. STEVENS. Yes.

Mr. DASCHLE. I renew my request.

The PRESIDING OFFICER. Without objection, it is so ordered.

CONDITIONAL ADJOURNMENT OR RECESS OF THE SENATE

Mr. FRIST. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of S. Con. Res. 71, the adjournment resolution.

The PRESIDING OFFICER. The clerk will report the resolution by title.

The assistant legislative clerk read as follows:

A concurrent resolution (S. Con. Res. 71) providing for a conditional adjournment or recess of the Senate.

There being no objection, the Senate proceeded to the consideration of the concurrent resolution.

Mr. FRIST. I ask unanimous consent that the concurrent resolution be agreed to and the motion to reconsider be laid upon the table.

The PRESIDING OFFICER. Without objection, it is so ordered.

The concurrent resolution (S. Con. Res. 71) was agreed to, as follows:

S. CON. RES. 71

Resolved by the Senate (the House of Representatives concurring), That when the Senate recesses or adjourns at the close of business on Friday, October 3, 2003, on a motion

offered pursuant to this concurrent resolution by its Majority Leader or his designee, it stand recessed or adjourned until Tuesday, October 14, 2003, at a time to be specified by the Majority Leader or his designee in the motion to recess or adjourn, or until noon on the second day after Members are notified to reassemble pursuant to section 2 of this concurrent resolution, whichever occurs first.

SEC. 2. The Majority Leader of the Senate after consultation with the Minority Leader of the Senate, shall notify the Members of the Senate to reassemble whenever, in his opinion, the public interest shall warrant it.

EMERGENCY SUPPLEMENTAL APPROPRIATIONS FOR IRAQ AND AFGHANISTAN SECURITY AND RECONSTRUCTION ACT, 2004—Continued

AMENDMENTS NOS. 1818 AND 1819, EN BLOC

Mr. BYRD. I ask unanimous consent that two amendments which I have discussed with Mr. STEVENS be introduced, that they be considered as having been read, and that they be temporarily set aside for the calling up of other amendments.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. I ask unanimous consent that amendment No. 1818 be introduced by me for myself, Mr. KENNEDY, and Mr. LEAHY and that amendment No. 1819 be shown as having been proposed by me on behalf of myself and Mr. DURBIN.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendments are as follows:

AMENDMENT NO. 1818

On page 38, between lines 20 and 21, insert the following:

SEC. 2313. (a)(1) Of the funds appropriated under chapter 2 of this title under the heading ''IRAQ RELIEF AND RECONSTRUCTION FUND''—

(A) not more than $5,000,000,000 may be obligated or expended before April 1, 2004; and

(B) the excess of the total amount so appropriated over $5,000,000,000 may not be obligated or expended after April 1, 2004, unless—

(i) the President submits to Congress in writing the certifications described in subsection (b); and

(ii) Congress enacts an appropriations law (other than this Act) that authorizes the obligation and expenditure of such funds.

(2) Paragraph (1) does not apply to the $5,136,000,000 provided under the heading ''IRAQ RELIEF AND RECONSTRUCTION FUND'' for security, including public safety requirements, national security, and justice (which includes funds for Iraqi border enforcement, enhanced security communications, and the establishment of Iraqi national security forces and the Iraq Defense Corps).

(b) The certifications referred to in subsection (a)(1)(A) are as follows:

(1) A certification that the United Nations Security Council has adopted a resolution (after the adoption of United Nations Security Council Resolution 1483 of May 22, 2003, and after the adoption of United Nations Security Council Resolution 1500 of August 14, 2003) that authorizes a multinational force under United States leadership for post-Saddam Hussein Iraq, provides for a central role for the United Nations in the political and economic development and reconstruction of Iraq, and will result in substantially increased contributions of military forces and amounts of money by other countries to assist in the restoration of security in Iraq and the reconstruction of Iraq.

(2) A certification that the United States reconstruction activities in Iraq are being successfully implemented in accordance with a detailed plan (which includes fixed timetables and costs), and with a significant commitment of financial assistance from other countries, for—

(A) the establishment of economic and political stability in Iraq, including prompt restoration of basic services, such as water and electricity services;

(B) the adoption of a democratic constitution in Iraq;

(C) the holding of local and national elections in Iraq;

(D) the establishment of a democratically elected government in Iraq that has broad public support; and

(E) the establishment of Iraqi security and armed forces that are fully trained and appropriately equipped and are able to defend Iraq and carry out other security duties without the involvement of the United States Armed Forces.

(c) Not later than March 1, 2004, the President shall submit to Congress a report on United States and foreign country involvement in Iraq that includes the following information:

(1) The number of military personnel from other countries that, as of such date, are supporting Operation Iraqi Freedom, together with an estimate of the number of such personnel to be in place in Iraq for that purpose on May 1, 2004.

(2) The total amounts of financial donations pledged and paid by other countries for the reconstruction of Iraq.

(3) A description of the economic, political, and military situation in Iraq, including the number, type, and location of attacks on Coalition, United Nations and Iraqi military, public safety, and civilian personnel in the 60 days preceding the date of the report.

(4) A description of the measures taken to protect United States military personnel serving in Iraq.

(5) A detailed plan, containing fixed timetables and costs, for establishing civil, economic, and political security in Iraq, including restoration of basic services, such as water and electricity services.

(6) An estimate of the total number of United States and foreign military personnel that are necessary in the short term and the long term to bring to Iraq stability and security for its reconstruction, including the prevention of sabotage that impedes the reconstruction efforts.

(7) An estimate of the duration of the United States military presence in Iraq and the levels of United States military personnel strength that will be necessary for that presence for each of the future 6-month periods, together with a rotation plan for combat divisions, combat support units. and combat service support units.

(8) An estimate of the total cost to the United States of the military presence in Iraq that includes—

(A) the estimated incremental costs of the United States active duty forces deployed in Iraq and neighboring countries;

(B) the estimated costs of United States reserve component forces mobilized for service in Iraq and in neighboring countries;

(C) the estimated costs of replacing United States military equipment being used in Iraq; and

(D) the estimated costs of support to be provided by the United States to foreign troops in Iraq.

(9) An estimate of the total financial cost of the reconstruction of Iraq, together with—

(A) an estimate of the percentage of such cost that would be paid by the United States and a detailed accounting specified for major categories of cost; and

(B) the amounts of contributions pledged and paid by other countries, specified in major categories.

(10) A strategy for securing significant additional international financial support for the reconstruction of Iraq, including a discussion of the progress made in implementing the strategy.

(11) A schedule, including fixed timetables and costs, for the establishment of Iraqi security and armed forces that are fully trained and appropriately equipped and are able to defend Iraq and carry out other security duties without the involvement of the United States Armed Forces.

(12) An estimated schedule for the withdrawal of United States and foreign armed forces from Iraq.

(13) An estimated schedule for—

(A) the adoption of a democratic constitution in Iraq;

(B) the holding of democratic local and national elections in Iraq;

(C) the establishment of a democratically elected government in Iraq that has broad public support; and

(D) the timely withdrawal of United States and foreign armed forces from Iraq.

(d) Every 90 days after the submission of the report under subsection (c), the President shall submit to Congress an update of that report. The requirement for updates under the preceding sentence shall terminate upon the withdrawal of the United States Armed Forces (other than diplomatic security detachment personnel) from Iraq.

(e) The report under subsection (c) and the updates under subsection (d) shall be submitted in unclassified form.

AMENDMENT NO. 1819

At the appropriate place in Title III, insert the following:

SECTION .

(a) None of the funds under the heading Iraq Relief and Reconstruction Fund may be used for: a Facilities Protection Service Professional Standards and Training Program; any amount in excess of $50,000,000 for completion of irrigation and drainage systems; construction of water supply dams; any amount in excess of $25,000,000 for the construction of regulators for the Hawizeh Marsh; any amount in excess of $50,000,000 for a witness protection program; Postal Information Technology Architecture and Systems, including establishment of ZIP codes; civil aviation infrastructure cosmetics, such as parking lots, escalators and glass; museum and memorials; wireless fidelity networks for the Iraqi Telephone Postal Company; any amount in excess of $50,000,000 for construction of housing units; any amount in excess of $100,000,000 for an American-Iraqi Enterprise Fund; any amount in excess of $75,000,000 for expanding a network of employment centers, for on-the-job training, for computer literacy training, English as a Second Language or for Vocational Training Institutes or catch-up business training; any amount in excess of $782,500,000 for the purchase of petroleum product imports.

(b) Notwithstanding any other provision of this Act, amounts made available under the heading Iraq Relief and Reconstruction Fund shall be reduced by $600,000,000.

(c) In addition to the amounts otherwise made available in this Act, $600,000,000 shall be made available for Operation and Maintenance, Army: *Provided*, That these funds are available only for the purpose of securing and destroying conventional munitions in Iraq, such as bombs, bomb materials, small arms, rocket propelled grenades, and shoulder-launched missiles.

Mr. STEVENS. I ask unanimous consent that those amendments be set aside for consideration of the Dodd amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Connecticut.

AMENDMENT NO. 1817

Mr. DODD. Mr. President, I send my amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Connecticut [Mr. DODD] proposes an amendment numbered 1817.

Mr. DODD. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To provide an additional $322,000,000 for safety equipment for United States forces in Iraq and to reduce the amount provided for reconstruction in Iraq by $322,000,000)

On page 2, line 20, strike ''$24,946,464,000:'' and insert ''$25,268,464,000, of which $322,000,000 shall be available to provide safety equipment through the Rapid Fielding Initiative and the Iraqi Battlefield Clearance program:''.

On page 25, line 10, strike ''$5,136,000,000'' and insert ''$4,884,000,000''.

On page 25, line 16, strike ''$353,000,000'' and insert ''$283,000,000''.

Mr. DODD. I apologize to my colleagues. I know it is a late hour. This is an important amendment, and I hope my colleagues can support it.

I rise to propose this amendment to the emergency supplemental spending bill to ensure that Congress and the administration keep sight of what I believe must remain our number one priority for the conduct of the operations in Iraq and Afghanistan, the protection of our American troops.

According to the U.S. Army, the President's supplemental bill falls short of over $200 million for critical gear for our soldiers slated to rotate in Iraq and Afghanistan in the months ahead. This amendment was designed specifically to see to it that those U.S. troops coming into Iraq, into a theater of war, would receive important equipment they need to perform their missions effectively. This equipment includes important high-tech body armor, bullet-proof helmets, special water packs to keep soldiers hydrated, and other survival gear.

I don't need to make the case about what is happening in Iraq on a daily basis, nor do I need to stress the importance of this kind of equipment. My colleagues are well aware of this situation.

As it stands now, the supplemental bill before the Senate only covers expenses for soldiers' personal equipment up to the first 3 months of 2004 and does not take into account very soon a considerable number of men and women who will be entering the theater to relieve soldiers who are there now.

In an $87 billion emergency spending package for 2004, one would think we could find enough money to meet the pressing equipment needs of our young men and women in uniform. That is why I was surprised to find an official list from the U.S. Army Comptroller's Office dated September 26 detailing several important items that remain unfunded in this supplemental. Above all else, it is a requirement that thousands of our soldiers, particularly those in the Reserves and the National Guard, be equipped with the most effective personal equipment available. Our troops need this gear to improve their performance in combat and to enhance their safety under intense conditions.

As my colleagues know, every day our men and women in uniform have been ordered into harm's way, sent into extreme heat—exceeding 120 degrees in some cases—with strenuous missions in different settings throughout Iraq and Afghanistan.

My chart shows what a foot soldier wears on his shoulders in Iraq: 60 pounds of body armor, tactical equipment, in hot desert heat, carrying high-tech night vision equipment, special framed backpacks, and other survival gear. In 120 degrees, carrying all this equipment becomes quite burdensome, so they have special hydration systems necessary for troops to safely survive the desert heat. These water pack systems, called camelbaks, are attached to the soldier's backpack to allow easy access to water when they are in motion.

Unfortunately, with the shortage of funds, the Army could not afford to equip all soldiers with this equipment, so many soldiers are using bulky canteens that quickly heat up in the desert sun. Most of the canteens do not have adequate capacity to carry the water they need in Iraq's intense heat.

This information comes from the U.S. Army. I am not making this up from news reports. This is what our military is telling us and where a shortfall exists in this supplemental.

In other cases, the soldiers are paying hundreds of dollars out of their own pockets to buy the equipment themselves, everything ranging from the camelbaks to gun scopes, because in spite of the Army's stated priorities, the administration did not procure enough personnel equipment for these men and women. I think we can do better than that.

The 2003 Defense Appropriations Act included language demanding answers to why the very men and women we send into combat are being forced to spend upwards of $300 per person. Our own Congress made this point: They are spending up to $300 per person on equipment to outfit themselves for combat in Iraq. The Army has yet to report on this issue and has established a rapid fielding initiative designed to outfit our soldiers with the most modern equipment available so they do not have to spend their own money on the latest body armor hydration systems.

Out of $324.5 million needed to fund this program in Iraq and Afghanistan, only $122.5 million was to be available in this supplemental budget bill. That means if our soldiers, many of whom are less than 21 years of age, making under $20,000 a year, want the right gear for their mission, they are going to have to dig into their own pockets to buy their own hydration equipment, radios, weapon sights, combat helmets, and individual body armor.

Let me cite an article that appeared in yesterday's Washington Post called ''The Children Of War,'' section C, page 16. There was an interview with the children whose parents are fighting in the Persian Gulf. One young person points out that her father has been buying other supplies already—a portable hammock, special water pouches, et cetera.

That is from a child talking about her parent having to buy his own equipment. I don't know of anyone who believes that ought to persist.

Now, in response to the Army's request, the committee added $300 million to the present supplemental request which could be used for either this additional equipment or the clearance of weapons and mines still lingering on Iraqi battlefields. It says it right here, in the CONGRESSIONAL RECORD, dated October 1, 2003, when the Supplemental Appropriations bill's accompanying report was printed. On page S12222, there is a chart detailing expenditures in the Army Operations and Maintenance account. $300 million is to be allocated for ''SAPI body armor/Rapid Fielding Initiative or battlefield cleanup.''

But the Army says it needs an additional $420 million just to handle the Iraqi battlefield clearance. As the pending legislation stands now, there is still not enough money in the bill to do both, and both items—more safety equipment and Iraqi battlefield clearance—are top Army priorities.

I think we need to address both of these issues. For those reasons, I have asked my colleagues to support this amendment to allocate an additional $322 million for the critical equipment of our troops and adequate resources for battlefield clearance to fully meet the Army's current requirements.

The funding in my amendment is fully offset by reductions in some of these reconstruction accounts called emergencies. I want to draw my colleagues' attention to them.

Looking at this next chart. I have reprinted items submitted to us by the Administration in their request, entitled ''Coalition Provisional Authority Request to Rehabilitate and Reconstruct Iraq,'' dated September 2003. It lists in this supposed emergency budget proposal, among other things, $15

million to procure 3,000 computers. That means we are providing computers at $5,000 a piece. This does not seem reasonable, when you could find a perfectly reasonable computer for $750. I have a lot of respect for what the Iraqis are going through, but I do not know, for the life of me, why you are going to spend around $3,000 to $5,000 per computer, and $40 million to train them under this so-called emergency budget.

You can go down even further on this list, and there are additional points to make. I will not go through all these items because of the time constraints. But my bill takes the money from two or three areas to come up with this $250 million to make up the difference between the $300 million in the bill and this additional amount to cover both battlefield clearance and the equipment they need.

Out of the money the administration has proposed to fund the construction of two 4,000-bed maximum security prisons, at a cost of $400 million—$50,000 per bed in an Iraqi prison—these moneys would be in addition to the $99 million also included in that account for the refurbishing and construction of 26 prisons and detention centers that existed under the regime of Saddam Hussein.

Even without spending one penny of the $400 million—by the way, we recommend taking $200 million of this, not all the $400 million. Even without spending one penny of the $400 million for the maximum security prisons, the prison capacity in Iraq will be nearly doubled from the 11,200 to 19,700, thanks to our efforts.

The question I would ask—anyone ought to ask—is, Do we really believe, in a democratic Iraq, there will be a need to imprison three times more Iraqi citizens than were kept behind bars under Saddam Hussein?

We would be transferring $200 million out of this account, cutting it in half—not eliminating all of it. We would also like to take $50 million out of the $100 million fund for the Iraqi witness protection program. That is right, there is $100 million listed in the Administration's budget justification materials for the emergency supplemental for witness protection. By the way, that is $100 million for 100 families.

Now, the average Iraqi makes $2,200 a year. I don't know what anyone is thinking here. And I do not understand how we can provide $1 million per family, when we are at the same time not meeting the requirements that our men and women in uniform are lacking.

The offsets for my amendment therefore include $50 million from the witness protection program as well as $70 million from the proposals for computers, computer training and even English classes proposed in this so-called emergency budget.

There are a lot of emergencies that need to be met, but you are going to be hard pressed to convince the American public that doubling the capacity of prisons is an emergency, or providing witness protection at $1 million per family, or buying computers at $3,000 each—when we are being told we cannot provide the necessary resources for our men and women in uniform.

In sum, I want to make the point that the Administration's supplemental budget request has simply not been scrubbed sufficiently. I do not believe any of my colleagues, if they were sitting down going over this in detail, would make a case that in $20 billion of construction money for Iraq, that a $100 million witness protection program, $400 million to double or triple the prison cells at $50,000 a bed in their prisons, and that $3,000 for computers—and $40 million, by the way, is to provide computer training—I would like to see someone get a $40 million appropriation to provide computer training for anyone else in this country, let alone to do it over in Iraq.

So these are the areas that we would take money from to provide for the $322 million to provide for the men and women in uniform who need these resources.

I mentioned earlier the kind of equipment. I will come back and just identify this for my colleagues. Again, this is not my assessment. This is the U.S. Army saying what they need. They need adequate provisions for clean water, additional high-tech backpacks, advanced combat helmets and body armor, additional radios, machine gun sights and tripods, M–16 ammunition, high-tech GPS compass equipment, additional desert boots, sun and wind dust goggles and gloves, grappling hooks, door ramming kits, sniper rifles, binoculars, and special night vision goggles.

That is their list. Yet they are being told: Either spend money to clear Iraqi battlefields of mines and other dangerous materials or receive effective safety gear. This seems unacceptable. The Army needs money for both of these line items.

And I think we ought to do both. I am saying do both. Do not add to the deficit, just take the $20 billion that we have for the reconstruction and go after some of these items that I do not think anyone—regardless of where you come out politically.

Let us take care of our men and women in uniform going over to Iraq. I do not think any of us want to read a story where one of our young troops has to go out and buy their own equipment to protect themselves. This is the 21st century. And in this day and age, the sole superpower in the world should not have to tell its military personnel to fend for themselves.

So for those reasons, I urge the adoption of the amendment. I apologize to my colleagues for taking time tonight, but I thought they ought to understand what was at stake and why I thought this amendment was particularly important.

For those reasons, I urge the adoption of the amendment, and I withhold the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. STEVENS. Mr. President, I am indeed sorry that the Senator did not discuss it with us further before he offered this amendment. There is $26 billion in the 2004 bill the President signed the night before last for the Army. They could reprogram any money they need from the $26 billion.

We asked them in and we identified the needs in the Army. We took $952 million from other services and moved it to the Army. And we covered specific items that they identified in terms of their priorities.

What Senator DODD's amendment does, though, is it adds money to accounts we have already plused up, and it takes it from money to bring the troops home. He has attacked the exact wrong part of the bill.

I wish I had more than 5 minutes, but I do not want to inconvenience my colleagues and keep them here too long tonight. People are missing planes because of this vote. And it is a vote that is duplicitous. It really is designed to reduce the $20.3 billion in the other part of the account.

We did get money for these people. We got money for every item that is on that list, and in the regular bill they have $26 billion. In addition to that, we added $952 million.

Now, I have been overseas. I said the other day, I remember going overseas, and on the way I bought boots. I did not like my boots. I bought shirts. I did not like my shirts. I bought gloves I would rather wear. Kids are kids, and they are going to buy what they want. This idea that they have to buy armor, armor is available on the basis of how rapidly it is produced. And we have put up money in here, more than enough to buy everything to be produced in this time that he mentioned between now and—what?—about 5 months away.

That is special money on top of the $26 billion that they could use if they want. It is in the O&M account. These are O&M items they are talking about.

Now, I do not believe we should do this at this late hour, try to take money out of one account and justify it by virtue of this litany of items that we reviewed. We did review it.

They brought us this list. The Senator has gone over this list of items that the Army would like to have in addition to what the Department of Defense gave them. We went over it and we agreed. We said: $952 million of this you should have had in the go-around in the Department of Defense. And we took it from the Air Force and from the Navy and from the Marines and put it here.

What we do miss is we do have $300 million for body armor in the rapid fielding initiative, and explosive and ordnance cleanup, $174 million for damaged equipment. We have $136 million for radios.

Now, the Senator mentions this $1 million for families. That is money that may be claimed—may be claimed. We paid $30 million for the people who came in and identified the two sons of Saddam Hussein. It may not be spent at all. It will only be spent if these people come in and disclose people we want to pick up that are worth the cost. What is the cost? Moving them out of the country forever. That is taking people and buying them a new life somewhere else because they have exposed themselves to death because they disclosed the location of some of these people.

I am appalled the Army would ask for this addition. We made an agreement with them. We took money from the other three services. And someone in the Army is going to answer to me. If it is really true someone in the Army went to the Senator from Connecticut and demanded more money than we gave them, after we gave them $26 billion in the regular bill, gave them another $952 million, almost a billion we took from other services, to come in and make this demand at this time, it is absolutely nonsense.

Anyone who comes back, I hope they understand they have been brought back to answer a political amendment. I am going to move to table it when the time comes. The Senator from Connecticut is my friend, but I have to tell you, to bring back people who have already gone home, some of them who missed planes in order to vote on this amendment at this time, is an absolute absurdity.

How much time do I have remaining?

The PRESIDING OFFICER. Thirty seconds.

Mr. STEVENS. I will reserve it.

Mr. DODD. Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. The Senator from Connecticut has 7 minutes.

Mr. DODD. Mr. President, the Army did not come to me. This is an official briefing provided by the United States Army Comptroller to both the Armed Services and Appropriations Committees. I am just reading what they said. They didn't make an attempt to get in touch with me. Their briefing materials speak for them. They say that there is a requirement for $420 million to fund the ordnance disposal on the battlefields still out there, and, in addition, there is a shortfall in Army equipment. That is it plain and simple.

What the committee has said is: You can only do one or the other, but you will not have enough money to do both.

I am suggesting you ought to be able to do both. To provide the $300 million, that is great, that helps. But the $300 million doesn't cover the $420 million for the battlefield clearance and for the shortfalls that occurred in this equipment. This is not about allowing service members to go out and buy shirts and gloves simply that they like. This is about equipping our soldiers with the most effective gear available to protect them from hostile fire as well as from the intense desert climate. I am not arbitrarily making up figures. The suggestion here is we come up with an additional $322 million to cover both circumstances—that is, the battlefield clearance as well as the equipment—and pay for it, by the way, not by readjusting moneys within the defense needs but in the reconstruction side of this supplemental request, that you can do away or at least delay, if you want, the idea of buying computers at $3,000 a copy, a witness protection program at $50 million for 50 families, and whether or not you can cut down prison construction from $400 million to $200 million. With my amendment, there is still plenty of funding to implement the reconstruction plans of the Coalition Provisional Authority.

I don't know why this is so controversial. Why don't we just accept this amendment? If I did it by not going into these reconstruction accounts, they might take it. But because I am talking about a witness protection program and ridiculously high-priced computers and going after excessive prison construction, which I think is hardly an emergency, all of a sudden this is a bad amendment and I am a dreadful guy for making folks come back and miss a plane.

I don't want a soldier out there getting hurt because they don't have the right equipment. I didn't make this up. The Army didn't come to me specifically. They made this case on September 26, the source was a briefing provided to Congress' defense committees by the Assistant Secretary of the Army for Financial Management and Comptroller, entitled, ''FY04 Supplemental Request for the Global War on Terrorism: The Army At War.'' That is where it comes from. I appreciate what the committee did with $300 million. But the committee report says you have to make a choice: Clearing up the battlefield or provide funding for soldiers' equipment. And I don't think the Army ought to be put in that position. I don't think you ought to ask them to have to make that choice. That is the reason for the amendment.

Again, I am sorry people have to come back and vote. That is not my intention. But I, in good conscience, believe this is a responsible amendment. I would have thought it might be accepted instead of making a lot more out of this than has to be the case. We all agree they ought to get the equipment. Why not just agree to the amendment? If you want to table the amendment, put people on record saying they would rather spend money on a witness protection program at $1 million a family in Iraq when the average family makes $2,200 a year, you explain that to the American taxpayer, why an Iraqi family would get $1 million in witness protection. That is ridiculous.

Spending $3,000 for a computer and $400 million to create new prison operations over there is not an emergency need. You make the choice whether or not you think that is more important than seeing these young people get what they need. I stand by the amendment. It is the right thing to do.

I yield back the remainder of my time, and I ask for the yeas and nays.

Mr. STEVENS. The yeas and nays are not ordered until I speak.

The PRESIDING OFFICER. The yeas and nays are in order at this time.

Mr. DODD. I ask for the yeas and nays.

Mr. STEVENS. I have not yielded back my time.

The PRESIDING OFFICER. It is not a motion to table. The yeas and nays can be requested at any time.

Mr. DODD. I ask for the yeas and nays.

The PRESIDING OFFICER. At the moment there is not a sufficient second.

The Senator from Alaska.

Mr. REID. I suggest the absence of a quorum.

Mr. STEVENS. Mr. President, that is good for me. If you want to have a quorum, go right ahead. Go right ahead.

The PRESIDING OFFICER. The Senator from Alaska has the floor.

Mr. DODD. I renew my request. I ask for the yeas and nays on the amendment.

The PRESIDING OFFICER. The Senator from Alaska has the floor.

Mr. STEVENS. Mr. President, I want to point out the Army has all of this money in this supplemental without any directions in the bill. The line items the Senator mentions are specified in our report. They have entire discretion to use any money in this bill for the moneys he has asked for. But he wants to take it from the other money. This is a duplicitous amendment to take money from the second part of the bill and put it in the first.

The PRESIDING OFFICER. The Senator from Alaska's time has expired.

Mr. STEVENS. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

Mr. STEVENS. Mr. President, I move to table the amendment.

The PRESIDING OFFICER. A motion to table has been made.

Mr. STEVENS. I ask for the yeas and nays on the motion to table.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The question is on the motion to table amendment No. 1817.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. MCCONNELL. I announce that the Senator from Colorado (Mr. CAMPBELL), the Senator from New Mexico (Mr. DOMENICI), the Senator from Mississippi (Mr. LOTT), the Senator from Pennsylvania (Mr. SANTORUM), and the Senator from Alabama (Mr. SHELBY) are necessarily absent.

Mr. REID. I announce that the Senator from Delaware (Mr. CARPER), the Senator from North Carolina (Mr. EDWARDS), the Senator from Florida (Mr.

GRAHAM), the Senator from South Carolina (Mr. HOLLINGS), the Senator from Hawaii (Mr. INOUYE), the Senator from South Dakota (Mr. JOHNSON), the Senator from Massachusetts (Mr. KERRY), the Senator from Connecticut (Mr. LIEBERMAN), and the Senator from Arkansas (Mr. PRYOR), are necessarily absent.

I further announce that, if present and voting, the Senator from Massachusetts (Mr. KERRY) would vote ''nay.''

The ACTING PRESIDENT pro tempore. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 49, nays 37, as follows:

[Rollcall Vote No. 376 Leg.]

YEAS—49

Alexander	Dole	Miller
Allard	Ensign	Murkowski
Allen	Enzi	Nelson (NE)
Bennett	Fitzgerald	Nickles
Bond	Frist	Roberts
Brownback	Graham (SC)	Sessions
Bunning	Grassley	Smith
Burns	Gregg	Snowe
Chafee	Hagel	Specter
Chambliss	Hatch	Stevens
Cochran	Hutchison	Sununu
Coleman	Inhofe	Talent
Collins	Jeffords	Thomas
Cornyn	Kyl	Voinovich
Craig	Lugar	Warner
Crapo	McCain	
DeWine	McConnell	

NAYS—37

Akaka	Dayton	Lincoln
Baucus	Dodd	Mikulski
Bayh	Dorgan	Murray
Biden	Durbin	Nelson (FL)
Bingaman	Feingold	Reed
Boxer	Feinstein	Reid
Breaux	Harkin	Rockefeller
Byrd	Kennedy	Sarbanes
Cantwell	Kohl	Schumer
Clinton	Landrieu	Stabenow
Conrad	Lautenberg	Wyden
Corzine	Leahy	
Daschle	Levin	

NOT VOTING—14

Campbell	Hollings	Lott
Carper	Inouye	Pryor
Domenici	Johnson	Santorum
Edwards	Kerry	Shelby
Graham (FL)	Lieberman	

The motion was agreed to.

Mr. STEVENS. Mr. President, I move to reconsider the vote, and I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. STEVENS. Mr. President, I am authorized by the majority leader to state that there will no more votes tonight. We have a series of amendments that we have agreed to accept by Senators COLLINS, REED, GRAHAM of South Carolina, VOINOVICH, and MURRAY. Some of these amendments are going to be proposed.

I have an amendment I will introduce. Those are the amendments only that will be considered now. There will be no votes on those.

I yield the floor.

Mr. REID. Mr. President, I ask unanimous consent that following the offering of the amendment by the two distinguished Senators from Maine and Oregon, Senator DASCHLE and Senator GRAHAM be recognized to offer their amendment.

Mr. STEVENS. We agreed to JACK REED next.

Mr. REED. I will go last.

Mr. STEVENS. We have no objection.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

AMENDMENT NO. 1820

The ACTING PRESIDENT pro tempore. The Senator from Maine.

Ms. COLLINS. I send an amendment to the desk and ask for its immediate consideration on behalf of myself, Senator WYDEN, and others.

The ACTING PRESIDENT pro tempore. The clerk will report.

The legislative clerk read as follows:

The Senator from Maine [Ms. COLLINS], for herself, Mr. WYDEN, Mr. ENZI, Mr. LIEBERMAN, Mr. LAUTENBERG, Mrs. FEINSTEIN, Mr. AKAKA, Mrs. CLINTON, Mr. BYRD, Mr. MCCAIN, and Mr. LEVIN, proposes an amendment numbered 1820.

Ms. COLLINS. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To limit the obligation and expenditure of funds for using procedures other than full and open competition for entering into certain contracts or other agreements for the benefit of Iraq)

On page 39, between lines 2 and 3, insert the following:

SEC. 3002. (a) None of the funds appropriated by this Act may be obligated or expended by the head of an executive agency for payments under any contract or other agreement described in subsection (b) that is not entered into with full and open competition unless, not later than 30 days after the date on which the contract or other agreement is entered into, such official—

(1) submits a report on the contract or other agreement to the Committees on Armed Services, on Governmental Affairs, and on Appropriations of the Senate, and the Committees on Armed Services, on Government Reform, and on Appropriations of the House of Representatives; and

(2) publishes such report in the Federal Register and the Commerce Business Daily.

(b) This section applies to any contract or other agreement in excess of $1,000,000 that is entered into with any public or private sector entity for any of the following purposes:

(1) To build or rebuild physical infrastructure of Iraq.

(2) To establish or reestablish a political or societal institution of Iraq.

(3) To provide products or services to the people of Iraq.

(4) To perform personnel support services in Iraq, including related construction and procurement of products, in support of members of the Armed Forces and United States civilian personnel.

(c) The report on a contract or other agreement of an executive agency under subsection (a) shall include the following information:

(1) The amount of the contract or other agreement.

(2) A brief discussion of the scope of the contract or other agreement.

(3) A discussion of how the executive agency identified, and solicited offers from, potential contractors to perform the contract, together with a list of the potential contractors that were issued solicitations for the offers.

(4) The justification and approval documents on which was based the determination to use procedures other than procedures that provide for full and open competition.

(d) The limitation on use of funds in subsection (a) shall not apply in the case of any contract or other agreement entered into by the head of an executive agency for which such official—

(1) either—

(A) withholds from publication and disclosure as described in such subsection any document or other collection of information that is classified for restricted access in accordance with an Executive order in the interest of national defense or foreign policy; or

(B) redacts any part so classified that is in a document or other collection of information not so classified before publication and disclosure of the document or other information as described in such subsection; and

(2) transmits an unredacted version of the document or other collection of information, respectively, to the chairman and ranking member of each of the Committees on Governmental Affairs and on Appropriations of the Senate, the Committees on Government Reform and on Appropriations of the House of Representatives, and the committees that the head of such executive agency determines has legislative jurisdiction for the operations of such executive agency to which the document or other collection of information relates.

(e)(1)(A) In the case of any contract or other agreement for which the Secretary of Defense determines that it is necessary to do so in the national security interests of the United States, the Secretary may waive the limitation in subsection (a), but only on a case-by-case basis.

(B) For each contract or other agreement for which the Secretary of Defense grants a waiver under this paragraph, the Secretary shall submit a notification of the contract or other agreement and the grant of the waiver, together with a discussion of the justification for the waiver, to the committees of Congress named in subsection (a)(1).

(2)(A) In the case of any contract or other agreement for which the Director of Central Intelligence determines that it is necessary to do so in the national security interests of the United States related to intelligence, the Director may waive the limitation in subsection (a), but only on a case-by-case basis.

(B) For each contract or other agreement for which the Director of Central Intelligence grants a waiver under this paragraph, the Director shall submit a notification of the contract or other agreement and of the grant of the waiver, together with a discussion of the justification for the waiver, to the Select Committee on Intelligence, the Committee on Appropriations, and the Committee on Governmental Affairs of the Senate and to the Permanent Select Committee on Intelligence, the Committee on Appropriations, and the Committee on Governmental Reform of the House of Representatives.

(f) Nothing in this section shall be construed as affecting obligations to disclose United States Government information under any other provision of law.

(g) In this section—

(1) the term ''full and open competition'' has the meaning given such term in section 4 of the Office of Federal Procurement Policy Act (41 U.S.C. 403);

(2) the term ''executive agency'' has the meaning given such term in section 105 of title 5, United States Code, and includes the Coalition Provisional Authority for Iraq; and

(3) the term ''Coalition Provisional Authority for Iraq'' means the entity charged by the President with directing reconstruction efforts in Iraq.

Ms. COLLINS. The amendment my colleague from Oregon and I are offering tonight requires the use of full and open competition for the award of contracts under this bill to support our military or related to the reconstruction of Iraq.

Competitive bidding ensures the taxpayer gets the very best value for his investment. It also enhances public confidence that contracts are awarded in a manner that is fair and transparent, a process that allows all qualified bidders to submit bids for the contract.

This principle of full and open competition is enshrined in the Competition and Contracting Act, which is current law.

Under that law, contracts must generally be bid under full or open competition unless one of seven exemptions is invoked.

Unfortunately, however, some of the contracts that have been awarded to date, both to support our military in Iraq and to begin reconstruction efforts, have not been awarded using full and open competition. The contracting process has been curtailed.

We want to make sure the general rule is competitive bidding, and, if there are cases where there are legitimate reasons for curtailing competition—say, for reasons of national security—then we believe there should be a process in place that requires a justification for curtailing competition and disclosure of that fact.

Generally, under our amendment, if competition is not used in the award of a contract, the agency involved would have to justify the reason for invoking an exception to competition and report that in the Commerce Business Daily, the Federal Register, and to the appropriate committees of Congress. We recognize there may be a few cases where it is so secret, it is so classified, that disclosure in the Commerce Business Daily and the Federal Register would not be appropriate. In those cases, we provide for an alternative form of notifying Congress.

Our amendment will bring accountability and sunshine to the competition and contracting process. I urge my colleagues to support our amendment.

It has been a great pleasure to work with my colleague, Senator WYDEN. We have made a number of efforts in this regard. I believe this amendment should enjoy widespread support.

I reserve the remainder of my time and I yield to the Senator from Oregon.

The ACTING PRESIDENT pro tempore. The Senator from Oregon.

Mr. WYDEN. Mr. President, I have enjoy working with my colleague from Maine over the last 5 or 6 months.

This amendment is especially important because it would mean for the first time the Congress is going to restrict the funds under this effort for reconstruction to only those contracts let in an open and competitive bid, except in very narrow circumstances.

In my view, much of the work to rebuild Iraq has been outsourced to private companies and it is now time, with this legislation, to end the outsourcing of accountability. What our constituents have said is: How much is this whole effort going to cost? How long is it going to take? And how is this money going to be spent?

As I have said, my view is that right now the contracting process looks a little like Dodge City before the marshall showed up. It seems very influential companies and others seem to write the rules that the United States is essentially in the dark. Then the news media comes out and highlights various concerns, most of which the Senate does not know much about, and there is a flurry of activity and people discuss whether or not the contract is going to be rebid.

What Senator COLLINS and I would like to do is establish some bipartisan order and go back, as the Senator from Maine has said, to the principles that the Competition and Contracting Act have been all about. Yes, $87 billion is a jaw-dropping sum of money. The Coalition Provisional Authority, the World Bank, and the U.N. have estimated—it was in the Wall Street Journal today—that it will take $56 billion over just the next 5 years for rebuilding in Iraq.

It seems to me it does not pass the smell test to allow this process where the Congress is in the dark, the American people are in the dark, and every Member of the Senate goes home and faces constituents who say, We want this process to work a little bit like our family finances do. Right now, a family makes purchases, they get a bank statement. For example, they spend X amount of dollars at Sears, they spend more at the grocery store, they pay for essentials, and get a bank statement showing what they spent. That is a process that is straightforward, that can be monitored. We look at the bank statement for Iraq; it is essentially devoid of specifics.

Senator COLLINS and I have tried to approach this on a bipartisan basis. People may think it is a quaint idea, but we believe in competition. We believe that transparency and disclosure works and it gets taxpayers the most for their money.

This amendment for the first time actually puts in place a funding restriction. In the past, Senator COLLINS and I have said we are willing to look at various approaches that involve reports after the fact. Now we are waiting for all of these investigations and inquiries to move at glacial speed.

What Senator COLLINS has said is—and I agree with her point completely—what we need now is some legislation with teeth in it. This funding restriction for the first time provides that.

We are very pleased to be able to come to the Senate, given the fact there have been a number of instances already where contracts were let without competitive bid or with only limited bidding. We have had a number of colleagues involved, colleagues from both parties.

I particularly commend Senator CLINTON, who has been my partner on the Democratic side. I also note that Senator ENZI has been very supportive of this effort. He joins this cause as well. Our thanks to Senator CLINTON, Senator ENZI, and many other Senators who have been involved in this effort.

Tonight, it seems to me, the Senate is saying: We will do it differently. We will draw a line in the sand. The Senate is no longer going to be in the dark with respect to this issue. I am very pleased we will be able to go home for this recess and say that at a time when the American people are looking for some concrete specifics with respect to the pricetag on this legislation and where the money exactly is going to go, we can say that because of this bipartisan amendment, for the first time the Senate is going to restrict these funds so as to promote open and competitive bidding and the kind of transparency that best makes free markets work.

I reserve the remainder of any time I have remaining. I also thank the chairman of the Senate Appropriations Committee who has had strong views on this issue and has worked closely with Senator COLLINS and me over almost 6 months. We appreciate the fact that now we have legislation with some real teeth in it to make sure the taxpayers get value for their money in the contracting process.

Mr. STEVENS. Mr. President, if I may speak for a moment.

The ACTING PRESIDENT pro tempore. The Senator from Alaska.

Mr. STEVENS. We will be happy to accept this amendment. It has been modified, as has been indicated. I want to state to the Senate, however, although the Senators are correct, this adds to existing law.

Existing law at the current time requires competitive bidding on contracts. The contracts that are outstanding now that have been entered into by the United States and its entities in Iraq have been let on the basis of competitive bids. There have been lots of questions raised about that, but some of the contracts were outstanding before the contractors were sent to Iraq, and they were general services contracts, and those were extended to Iraq. But we are now putting, as the two Senators mentioned, additional emphasis on that, and I am pleased to accept the amendment on behalf of the Senate.

The ACTING PRESIDENT pro tempore. Is there further debate?

Ms. COLLINS. Mr. President, I yield back my time if the Senator from Oregon will also yield back his time.

Mr. WYDEN. Mr. President, I do.

The ACTING PRESIDENT pro tempore. If there is no further debate, the question is on agreeing to the amendment.

The amendment (No. 1820) was agreed to.

The ACTING PRESIDENT pro tempore. The Senator from Alaska.

Mr. STEVENS. Mr. President, now Senator DASCHLE and Senator GRAHAM will present their amendment.

The ACTING PRESIDENT pro tempore. The Senator from South Carolina.

AMENDMENT NO. 1816

(Purpose: To ensure that members of the Ready Reserve of the Armed Forces are treated equitably in the provision of health care benefits under TRICARE and otherwise under the Defense Health Program)

Mr. GRAHAM of South Carolina. Mr. President, I call up amendment No. 1816.

The ACTING PRESIDENT pro tempore. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from South Carolina [Mr. GRAHAM], for Mr. DASCHLE, for himself and Mr. GRAHAM of South Carolina, Mr. LEAHY, Mr. STEVENS, Mr. BOND, Mr. BURNS, Mr. WARNER, Mrs. CLINTON, Mr. DEWINE, and Mr. CHAMBLISS proposes an amendment numbered 1816.

Mr. DASCHLE. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

(The amendment is printed in today's RECORD under ''Text of Amendments.'')

The ACTING PRESIDENT pro tempore. The Senator from South Dakota.

Mr. DASCHLE. Mr. President, the Senator from South Carolina and I have been negotiating and working with the distinguished manager of the bill regarding an amendment we have been attempting to pass now over the course of this entire session of Congress.

Our view has been from the very beginning that members of the National Guard and Reserves need the opportunity to have access to TRICARE health insurance. And now, on three occasions, the Senate has been on record—with increasing numbers—in support of this concept, this idea that TRICARE ought to be offered to members of the Guard and Reserves.

We have been gratified with the strong bipartisan support that has been indicated with each one of the votes. Our concern, however, is it does not do us much good to continue to pass these measures on the Senate floor only to see the amendments dropped by the time they get to conference.

We want to pass something into law. We want something to be provided to as many of these members of the Guard and Reserves as we possibly can this year. So in trying to figure out what might work best, and in working with the distinguished Senator from Alaska, we have concluded perhaps the best way to do this is to ensure we go to those people who need it the most, that is, those members of the Guard and Reserves who have no health insurance today, and that when members of the Guard and Reserves are called up to active duty, they also are compensated for the TRICARE insurance that would be provided to them while they are on active duty.

Now, we will say from the very beginning this is not what we would like. We would like to do more, but we know that doing something is better than doing nothing if, in the end, that is what happens.

So I first thank the distinguished Senator from South Carolina for his tenacity and persistence. He has done an outstanding job in working on this issue and has provided great leadership. He has been a very helpful partner. I also say there are Senators on my side of the aisle, Senator LEAHY in particular, and Senator CLINTON, who have been especially helpful in this effort. So I appreciate very much the Senator from Alaska working with us. I am satisfied this is a reasonable compromise.

With that, I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from South Carolina.

Mr. GRAHAM of South Carolina. Mr. President, I will try to be brief.

We have a great team defending America right now. That team is made up of active-duty members who have made a decision to serve 4 years or maybe have a career in the military. But that team is supplemented by the Guard and Reserves. There are 224,000 Guard and Reserve members called up to active duty and, working together, they are doing a great job defending our freedom. It is time to look anew at the role the Guard and Reserves play.

I say to Senator DASCHLE, I want to publicly thank him for making this possible because he has been great to work with, and Senator DEWINE. I think we have been a pretty good team here on the floor. We disagree on a lot, and there will be a lot of fussing and fighting before this bill is over with, but that is the American way. It is OK to express our differences. It is great to be able to tell people you disagree. There are a lot of countries where there are not many ways to express your disagreements. But one of the things we have done tonight, and I think in the spirit of the country, is to come together to support our men and women who serve.

So why do we need this? One-fourth of the Guard and Reserves are on active duty now, with more to come. We need to acknowledge the obvious. They will be asked to do more, not less, over the coming months and years. Why? The cold war model of having tanks in the Fulda Gap and a large nuclear deterrent force standing up against the former Soviet Union, that war, thank goodness, is in the history books for the most part.

The new war, the war on terrorism, has a totally different dynamic. The Guard and Reserves, which were tangential, to be honest with you, in the cold war are in the forefront of this war on terrorism. Most of your military police are guards and reservists. Seventy-five percent of the aircrews flying C–130s—and I know our Presiding Officer knows this because we took nine trips in the theater of Afghanistan and Iraq. Eight of the crews are Guard crews, one is a Reserve crew. Seventy-five percent of the people flying C–130s are Guard and Reserves. Fifty-five percent of the people flying airlift to get the supplies and resources into the region to protect our troops and help them survive are reservists. Almost 90 percent of the intelligence service for the Army is in the Reserves, 90 percent is civil affairs Reserves. It is growing by leaps and bounds.

What we are trying to do tonight is provide a better benefit package than they have had before because we are going to ask so much of the Guard and Reserves.

Senator STEVENS made this possible. We have passed two bills by 80-plus votes, but there is no money behind it. For all those who follow the Senate, they know who is in charge of the money. Senator STEVENS made this possible because we are putting money behind the bill.

What does that mean? It is no longer talk. Twenty percent—2 out of 10 people—who are Guard and Reserves are without health care. This bill immediately will allow them to have health care year round. They will pay a premium like a retiree would pay, but they will have health care by being a member of the Guard or Reserves.

We need to do more, and we will. The problem of a Guard or Reserve family goes like this: If you are called up to active duty for a year, you go into the military health care system called TRICARE. If you have health care in the private sector, most times—almost all the time—your physician network is replaced. You go from the private health care sector to the military health care sector. And when you get deactivated, you change, and there is no continuity of health care. Thirty percent of the people called to active duty were unable to be deployed because of health care problems.

We are not done yet. There is more to do. It is my goal, my hope, my dream, for the Guard and Reserve forces that if you will join, and you will participate, and you will help defend America as a guard or reservist, we will offer you full-time health care. You pay a premium, but you and your family will be taken care of in the health care area. I think it is the least we could do. I think it is what we should do. And tonight is a huge step forward.

I thank all of the Senators who made it possible. The fussing, the fighting yet to come on this bill is part of America. But let it be said at about 8:50 at night, Republicans and Democrats came together to help Guard and Reserve members. When you are in a war, they do not ask you if you are a Republican or a Democrat. They are asking you to do your job. So I am honored to be part of this effort.

I ask unanimous consent that Senator HAGEL and Senator ALLEN be added as cosponsors.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. GRAHAM of South Carolina. I thank the Chair.

With that, I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from South Dakota.

Mr. DASCHLE. Mr. President, I do not know—I haven't seen the list of cosponsors—but if they are not listed, I ask unanimous consent that Senators LEAHY, REID, and CLINTON be added as cosponsors.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The Senator from Alaska.

Mr. STEVENS. Mr. President, we have worked on this amendment. There is a vast problem out there among Guard and Reserve people. We have a total force now in our military. We passed the concept that the Guard and Reserves are replacements for the regular services when they are sent overseas. The Guard and Reserves are sent overseas almost as much as the regular members of our military. They have volunteered to defend us, as the Senators have said. Their families need the same protection that we offer to those who volunteer in the regular services.

We have modified this amendment because we really basically want to see what happens when this change takes place. The cost of this amendment that we have put forward is approximately $400 million this year and by the following year it will be $500 million. We don't know how much it will really cost because we don't know how many will come forward and take this, as compared to what they are doing now as far as their medical is concerned. It is a contributory system for TRICARE, another experiment that we hope we will be able to get some track record on.

As I have become more familiar with the National Guard, it is very strong, and the Reserves, also. We want to assure that people will continue to maintain an interest in joining the Guard and Reserves. Most people don't understand that the transition from Guard and Reserves to regular services has reversed history. In days gone by, people came out of the military and entered the Guard and Reserves. Today many people enter the Guard and Reserves and then decide they are going to try to become career military. This will be an added inducement to get more people to enlist in the Guard and Reserves. It might have a reverse effect and we are not sure of that yet. This will give us a track record.

I am pleased to say that we have conferred with members of the Armed Services Committee on this amendment, and they have agreed we should go forward with it.

I am pleased to accept the amendment on behalf of the Senate.

The ACTING PRESIDENT pro tempore. Is there further debate on the amendment?

The Senator from South Carolina.

Mr. GRAHAM of South Carolina. I want to add one thing. There was an article in USA Today yesterday: ''Army Reserve Fears Troop Exodus.'' The Army National Guard is 15,000 below its recruiting goal. ''Soldiers are 'stressed' on yearlong deployments.'' I really honestly believe that this benefit made available will help retention and recruitment because the problems with these deployments are coming down the road. The further we can get ahead of this by beefing up the benefit package, the better America will be.

I ask unanimous consent to print the article to which I referred in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

ARMY RESERVE FEARS TROOP EXODUS

(By Dave Moniz)

If the United States is unable to recruit significantly more international troops or quell the violence in Iraq in the next few months, it could trigger an exodus of active and reserve forces, the head of the U.S. Army Reserve said Monday.

Lt. Gen. James Helmly, chief of the 205,000-member Army Reserve, said he and other Pentagon leaders will be monitoring retention rates closely next year, when problems could begin to become apparent for full-time and part-time soldiers coming off long tours of duty in Iraq.

''Retention is what I am most worried about. It is my No. 1 concern,'' Helmly told USA TODAY's editorial board. ''This is the first extended-duration war the country has fought with an all-volunteer force.''

Helmly described the war on terrorism as an unprecedented test of the 30-year-old all-volunteer military. Historically, he said, the National Guard and Reserve were designed to mobilize for big wars and then bring soldiers home quickly.

Today, he said, they have ''entered a brave new world'' where large numbers of troops will have to be deployed for long periods.

Counting training time and yearlong tours in Iraq, some Army Reserve soldiers could be mobilized for 15 months or more. Helmly described the situation facing soldiers in Iraq as ''stressed'' but said he could not characterize it as at a ''breaking point.''

The stresses facing the nation's reservists were demonstrated again this week when the National Guard announced it had alerted a combat brigade from Washington state that it could be sent to Iraq next year if a third block of international troops cannot be recruited to join the British and Polish-led divisions now in Iraq.

Guard officials said Monday that the 5,000-member 81st Army National Guard brigade from Washington state has been notified that it could be called to active duty.

Helmly said a huge factor in Iraq will be the Pentagon's ability to train an Iraqi army and security force.

The Defense Department recently announced plans to accelerate the development of an Iraqi army, pushing the goal from 12,000 troops to 40,000 troops in the next year.

The Army National Guard and Army Reserve have about one-fourth of their troops—nearly 129,000 soldiers—on active duty.

The active-duty Army and the Army Reserve both met their recruiting goals for the fiscal year that ends today. The Army National Guard, however, is expected to fall about 15% short of its recruiting goal of 62,000 soldiers.

Although the Guard and Reserve say their retention rates have not suffered this year, the figures could be misleading. Under an order known as ''stop loss,'' soldiers on active duty are prohibited from leaving the service until their tours end.

Active-duty and Reserve commanders fear that when U.S. soldiers on yearlong rotations come home next year, many will choose to leave the service.

The ACTING PRESIDENT pro tempore. Is there further debate on the amendment?

If not, the question is on agreeing to the amendment.

The amendment (No. 1816) was agreed to.

Mr. DASCHLE. Mr. President, I move to reconsider the vote.

Mr. STEVENS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 1821

Mr. STEVENS. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The ACTING PRESIDENT pro tempore. The clerk will report.

The legislative clerk read as follows:

The Senator from Alaska [Mr. STEVENS] proposes an amendment numbered 1821.

Mr. STEVENS. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To strike the requirement for the Department of Defense to describe an Analysis of Alternatives for replacing the capabilities of the KC–135 aircraft fleet)

Strike section 309.

Mr. STEVENS. Mr. President, this is an amendment to delete a provision in the bill that required a report from the Department of the Interior. At the request of Senator MCCAIN, I am removing that, and I ask unanimous consent to remove that from the bill before it goes to conference. I ask for its consideration.

The ACTING PRESIDENT pro tempore. Is there further debate on the amendment?

If not, the question is on agreeing to amendment No. 1821.

The amendment (No. 1821) was agreed to.

AMENDMENT NO. 1822

Mr. REID. Mr. President, if my friend, the Senator from Rhode Island, will be patient, I send an amendment to the desk on behalf of Senator MURRAY.

The ACTING PRESIDENT pro tempore. The clerk will report.

The legislative clerk read as follows:

The Senator from Nevada [Mr. REID], for Mrs. MURRAY, for herself and Mr. DURBIN, proposes an amendment numbered 1822.

Mr. REID. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To provide requirements with respect to United States activities in Afghanistan and Iraq)

On page ____, between lines ____ and ____, insert the following new section:

SEC. ___. REQUIREMENTS RELATING TO UNITED STATES ACTIVITIES IN AFGHANISTAN AND IRAQ.

(a) GOVERNANCE.—Activities carried out by the United States with respect to the civilian governance of Afghanistan and Iraq shall, to the maximum extent practicable—

(1) include the perspectives and advice of—

(A) women's organizations in Afghanistan and Iraq, respectively;

(2) promote the inclusion of a representative number of women in future legislative bodies to ensure that the full range of human rights for women are included and upheld in any constitution or legal institution of Afghanistan and Iraq, respectively; and

(3) encourage the appointment of women to high level positions within ministries in Afghanistan and Iraq, respectively.

(b) POST-CONFLICT RECONSTRUCTION AND DEVELOPMENT.—Activities carried out by the United States with respect to post-conflict stability in Afghanistan and Iraq shall, to the maximum extent practicable—

(1) encourage the United States organizations that receive funds made available by this Act to—

(A) partner with or create counterpart organizations led by Afghans and Iraqis, respectively; and

(B) provide such counterpart organizations with significant financial resources, technical assistance, and capacity building;

(2) increase the access of women to, or ownership by women of, productive assets such as land, water, agricultural inputs, credit, and property in Afghanistan and Iraq, respectively;

(3) provide long-term financial assistance for education for girls and women in Afghanistan and Iraq, respectively; and

(4) integrate education and training programs for former combatants in Afghanistan and Iraq, respectively, with economic development programs to—

(A) encourage the reintegration of such former combatants into society; and

(B) promote post-conflict stability in Afghanistan and Iraq, respectively.

(c) MILITARY AND POLICE.—Activities carried out by the United States with respect to training for military and police forces in Afghanistan and Iraq shall—

(1) include training on the protection, rights, and particular needs of women and emphasize that violations of women's rights are intolerable and should be prosecuted; and

(2) encourage the personnel providing the training described in paragraph (1) to consult with women's organizations in Afghanistan and Iraq, respectively, to ensure that training content and materials are adequate, appropriate, and comprehensive.

The ACTING PRESIDENT pro tempore. Is there further debate on the amendment? If not, the question is on agreeing to amendment No. 1822.

The amendment (No. 1822) was agreed to.

AMENDMENT NO. 1823

Mr. REID. Mr. President, I send an amendment to the desk on behalf of Senators STABENOW, DURBIN, BOXER, JOHNSON, and SCHUMER.

The ACTING PRESIDENT pro tempore. The clerk will report.

The legislative clerk read as follows:

The Senator from Nevada [Mr. REID], for Ms. STABENOW, Mr. DURBIN, Mrs. BOXER, Mr. JOHNSON, and Mr. SCHUMER, proposes an amendment numbered 1823.

Mr. REID. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To provide emergency relief for veterans healthcare, school construction, healthcare and transportation needs in the United States, and to create 95,000 new jobs)

At the appropriate place, insert the following:

SEC. ___. A MONTH FOR AMERICA.

(a) VETERANS HEALTHCARE.—For an additional amount for veterans healthcare programs and activities carried out by the Secretary of Veterans Affairs, $1,800,000,000 to remain available until expended.

(b) SCHOOL CONSTRUCTION.—

(1) IN GENERAL.—For an additional amount for the Fund for the Improvement of Education under part D of title V of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7241 et seq.), $1,000,000,000 for such fund that shall be used by the Secretary of Education to award formula grants to State educational agencies to enable such State educational agencies—

(A) to expand existing structures to alleviate overcrowding in public schools;

(B) to make renovations or modifications to existing structures necessary to support alignment of curriculum with State standards in mathematics, reading or language arts, or science in public schools served by such agencies;

(C) to make emergency repairs or renovations necessary to ensure the safety of students and staff and to bring public schools into compliance with fire and safety codes;

(D) to make modifications necessary to render public schools in compliance with the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.) and section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794);

(E) to abate or remove asbestos, lead, mold, and other environmental factors in public schools that are associated with poor cognitive outcomes in children; and

(F) to renovate, repair, and acquire needs related to infrastructure of charter schools.

(2) AMOUNT OF GRANT.—The Secretary of Education shall allocate amounts available for grants under this subsection to States in proportion to the funds received by the States, respectively, for the previous fiscal year under part A of title I of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6311 et seq).

(c) HEALTHCARE.—For an additional amount for healthcare programs and activities carried out through Federally qualified health centers (as defined in section 1861(aa) of the Social Security Act (42 U.S.C. 1395x(aa))), $103,000,000 to remain available until expended.

(d) TRANSPORTATION AND JOB CREATION.—

(1) IN GENERAL.—For an additional amount for transportation and job creation activities—

(A) $1,500,000,000 for capital investments for Federal-aid highways to remain available until expended; and

(B) $600,000,000 for mass transit capital and operating grants to remain available until expended.

(2) PRIORITY.—In allocating amounts appropriated under paragraph (1), the Secretary of Transportation shall give priority to Federal-aid highway and mass transit projects that can be commenced within 90 days of the date on which such amounts are allocated.

(b) OFFSET.—Each amount appropriated under title II under the heading ''OTHER BILATERAL ECONOMIC ASSISTANCE—FUNDS APPROPRIATED TO THE PRESIDENT—IRAQ RELIEF AND RECONSTRUCTION FUND'' (other than the amount appropriated for Iraqi border enforcement and enhanced security communications and the amount appropriated for the establishment of an Iraqi national security force and Iraqi Defense Corps) shall be reduced on a pro rata basis by $5,030,000,000.

(c) SENSE OF THE SENATE.—It is the sense of the Senate that Congress should consider an additional $5,030,000,000 funding for Iraq relief and reconstruction during the fiscal year 2005 budget and appropriations process.

Mr. REID. Mr. President, I ask unanimous consent that this amendment be set aside for the offering of an amendment by the Senator from Rhode Island.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered. The amendment will be set aside.

The Senator from Rhode Island.

AMENDMENT NO. 1812, AS MODIFIED

Mr. REED. Mr. President, I call up amendment No. 1812 and send a modification to the desk.

The ACTING PRESIDENT pro tempore. The clerk will report.

The legislative clerk read as follows:

The Senator from Rhode Island [Mr. REED], for himself, Mr. BAYH, and Mr. KENNEDY, proposes an amendment numbered 1812, as modified.

Mr. REED. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered. The amendment will be so modified.

The amendment is as follows:

(Purpose: To increase the amount provided for the Army for procurement of High Mobility Multipurpose Wheeled Vehicles, to require an Army reevaluation of requirements and options for procuring armored security vehicles, and to provide an offset)

On page 22, between lines 12 and 13, insert the following:

SEC. 316. (a) Of the funds provided in this title under the heading ''IRAQ FREEDOM FUND'', up to $191,100,000 be available for the procurement of up-armored High Mobility Multipurpose Wheeled Vehicles in addition to the number of such vehicles for which funds are provided within the amount specified under such heading.

Mr. REED. Mr. President, I ask unanimous consent that Senator KENNEDY be added as a cosponsor.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. REED. Mr. President, I rise to offer an amendment to ensure that our troops in Iraq and other dangerous areas throughout the world, many of whom are Reservists and members of the National Guard, have the equipment they need to protect themselves. In particular, I would like to discuss the uparmored Humvees which soldiers need to protect themselves from the threat of RPGs and mines and weapons that are inflicting casualties today as we speak in Iraq.

To effectively carry out the mission, Army officials have said that they need more Humvees, uparmored Humvees. I believe them. The administration in this bill failed to fully meet that request.

My amendment is designed to meet the needs of the Army today as they face these numerous threats around the globe. The amendment is cosponsored by Senators BAYH and KENNEDY. It would add funding to this supplemental request to buy additional uparmored Humvees and would also direct the Army to reevaluate its requirements for the armored security vehicle.

The HMMWV, or high mobility multipurpose wheeled vehicle, better known as the Humvee, is the workhorse of the United States. It is being used around the globe today in conflicts from Afghanistan to Iraq to the Balkans. The uparmored Humvee is a variation of the basic vehicle. It was designed to offer increased protection to troops from small arms fire, rocket-propelled grenades, and blasts from mines.

It was designed primarily for military police and special operations personnel, exactly the type of soldiers being called upon to do very dangerous missions in Iraq today.

The armored security vehicle, or the ASV, is also a vehicle in the Army inventory. It is designed to complement the uparmored Humvee. There are very few of them, but it is a requirement that I believe the Army should study again.

In July, I visited Iraq and had the opportunity to meet with my constituents from the Rhode Island National Guard, the 115th Military Police Company, and 119th Military Police Company, the 118th Military Police Battalion. It was on the tarmac at Baghdad International Airport. I got off the aircraft with my colleagues. I rushed over to the formation of these military police men and women. I began to speak with them. The first request that I got was repeated several times over: We need uparmored Humvees. We are in a dangerous situation. We are patrolling the roads of Iraq. We see other units with these vehicles. We need them.

When I came back to the United States, I was convinced that we needed more uparmored Humvees. In the intervening weeks, the Rhode Island National Guard, 115th Military Police Company, has lost three soldiers. Two were killed when an improvised explosive device, a 155-millimeter shell, exploded underneath their regular Humvee. No one can determine whether or not an uparmored Humvee would have saved the lives of these two soldiers, Staff Sergeant Joseph Camara and Sergeant Charles Caldwell. I know having such a vehicle would add to the confidence and security of the troops.

A few days ago Specialist Michael Andrade of the 115th Military Police was killed, again in a Humvee in an accident involving a convoy operation in which a tanker truck crashed into his vehicle. Last Monday evening I was there in Rhode Island when they brought Specialist Andrade's body home to his family. This Saturday he will be buried in Rhode Island. I know you can't determine whether or not this type of vehicle would have saved this young soldier's life. But I can tell you, if they had a choice, all of our military police, all of our soldiers in Iraq would prefer to be in an uparmored Humvee than a Humvee without the armor, and their families would make that choice, also.

It is clear that we need more. This bill contains more vehicles. I commend the President for that proposal. I believe we need more than even what is included in this bill.

When I returned from Iraq, I wrote to Secretary Rumsfeld. I also called the Army. At that time I was verbally told by the Army that the requirement for additional Humvees was about 500. But then as the summer wore on, several things became apparent. This insurgency was extremely serious and extremely lethal. Also that the requirement for uparmored Humvees was going up. Indeed, I believe—I have said this before—that we could be involved and will likely be involved in Iraq for years, not months, stretching perhaps to 10 years. These are the types of vehicles that are crucial to effective operation in an occupation force as we have in Iraq.

Now, my initial response from the Army was that they need 500 more. By September 8, the Army sent a formal response indicating that the requirement now is 1,723 uparmored Humvees and 1,461 will be sent immediately to the theater. I commend the Army because they have tried their best to move as many available vehicles into the theater of Iraq as possible.

Now, 619 vehicles were coming off the assembly line and being sent directly to Iraq; 430 were being pulled from units in the United States and Europe; another 412 were pulled out of the Balkans. So we are trying to meet the need in Iraq, but we are doing it by taking these vehicles from other potentially dangerous areas, such as the Balkans. Also, vehicles were taken from the units in the United States—we hope they are training on these vehicles in preparation to go overseas.

I believe indeed that this requirement will increase, and in fact what we have seen throughout the course of the last several months is the Army and the Department of Defense seriously reevaluating the need for uparmored Humvees. They have concluded that these uparmored Humvees are indeed necessary.

We have received information that the Army in fact has a requirement in excess of 3,400 vehicles. Again, just a few weeks ago, the requirement was 1,700; now the requirement is 3,400 vehicles. They say the best way to accommodate future funding for increased production would be to use the Iraqi Freedom Fund. I propose to do that. In fact, OSD has concurred with this approach. The Secretary of Defense has concurred. What we are waiting on is a validation of how many of these vehicles can be produced at the assembly point.

So my amendment is straightforward. It requests additional money in the amount of approximately $191 million from the Iraqi Freedom Fund to buy 800 additional vehicles, or so many as may be acquired with that money. In fact, I hope we can, in the next year, buy even more. The analysis by myself and my staff suggests this money would be sufficient to fully operate the production line and get all the vehicles possible that we need.

The Iraqi Freedom Fund in this bill contains $1.9 billion, so there are sufficient resources. I believe we should do this and we should do it promptly. The indication from the Army is that they need the vehicles, and also if we act in this appropriations bill, we can speed those vehicles to Iraq.

As I said earlier, there is another aspect of this, and that is the armored security vehicle. We are asking the Army to look back at this requirement and reevaluate it.

I will conclude by taking the advice of Secretary Rumsfeld that it is not necessary to listen to the media but listen to the soldiers. I have a letter from a young lieutenant in Afghanistan. Here is what he writes:

> I am the leader of one platoon of many here trained Stateside for dismounted missions and handed uparmored Humvees upon arrival at our firebases. My strong NCO's have adapted and worked hard to train on this different platform. I feel it is criminal, however, to have sent so many units here without Stateside training on either the . . . uparmored Humvee or its complementary weapon, the MK–19 auto grenade launcher and M2 .50 caliber machine gun.

He goes on to say:

> Our mechanics, for example, have no experience with the uparmored Humvees and are too few to fix vehicles which have been driven hard for at least 18 months on the awful ''roads'' here. Without vehicles, we have no mobility. Without mobility, we cannot either protect the reconstruction teams or interdict terrorists/criminals intent on rocketing our bases and mining the roads.

That is the viewpoint of one of these magnificent young soldiers in Afghanistan working with the vehicles. He appreciates the value of the vehicles. I think every soldier, every squad that has missions like this, whether in Afghanistan or Iraq, should have these vehicles, and that is the intent of this amendment. Further, I will add that one of the suggestions to me in his letter is:

> Purchase new uparmored Humvees for Afghanistan to replace the ones about to die or send qualified mechanics with the requisite parts to fix them.

That could be written by any soldier in Afghanistan or Iraq, and indeed there are many in Iraq, particularly, that do not even have access to

uparmored Humvees. I will conclude by thanking the chairman and the staff for their assistance on this amendment. I also thank the chairman sincerely not only for this effort but for almost $900 million of additional funding for the Army, for vests, for a host of equipment. I also understand from our discussion that he feels as strongly as I do about this issue and will do his best in conference to ensure these additional Humvees are provided.

I yield the floor.

Mr. STEVENS. Mr. President, the Senator is correct. We funded in this bill what we thought were a number of these upgraded Humvees that could be produced and were the stated demand of the Army at that time. This demand keeps going up as it is realized how much these Humvees need to be modernized. We have changed to deal with the circumstances in Iraq. They are very interesting modifications. We have both been briefed on them. Some of the modifications are still classified.

It is our intention to fund it. Coming out of conference, I will do my utmost to fund the number of Humvees that can be upgraded in a reasonable period ahead of time so we can meet this demand so that every group of the military that needs Humvees for their protection will be modernized and upgraded for self-protection. They do have to have some additional items. There are methods some of the terrorists have used to destroy Humvees that can't be defended against.

So it is our intention to modernize these Humvees. They were not defective. Some of the methods terrorists use are unique. We need additional protection from above, and from the side, and from the rear, and underneath the Humvees. We cannot turn them completely into shockproof tanks, but we are going to do our best. This is a No. 1 priority for the Senate, as far as I am concerned—that and the problem of finding these weapons caches and destroying them, or really making certain that the usable weapons, particularly hand-held weapons, are put under guard and assured that they will not get in the wrong hands.

I thank the Senator for his willingness to accept our modifications, and I assure him we will keep on top of this. We will confer with the Senator because I know of his distinguished Army career. We are pleased to have his assistance on this matter.

The ACTING PRESIDENT pro tempore. The question is on agreeing to the amendment.

The amendment (No. 1812), as modified, was agreed to.

Mr. STEVENS. I move to reconsider the vote and I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 1808

Mr. STEVENS. Mr. President, I send an amendment to the desk for Mr. VOINOVICH and Mr. LOTT.

The ACTING PRESIDENT pro tempore. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Alaska [Mr. STEVENS], for Mr. VOINOVICH and Mr. LOTT, proposes an amendment numbered 1808.

The amendment is as follows:

(Purpose: To require a report on efforts to increase financial contributions from the international community for reconstruction in Iraq and the feasibility of repayment of funds contributed for infrastructure projects in Iraq)

On page 38, between lines 20 and 21, insert the following new section:

SEC. 2313. Not later than 120 days after the date of the enactment of this Act, the President shall submit to Congress a report on the efforts of the Government of the United States to increase the resources contributed by foreign countries and international organizations to the reconstruction of Iraq and the feasibility of repayment of funds contributed for infrastructure projects in Iraq. The report shall include—

(1) a description of efforts by the Government of the United States to increase the resources contributed by foreign countries and international organizations to the reconstruction of Iraq;

(2) an accounting of the funds contributed to assist in the reconstruction of Iraq, disaggregated by donor;

(3) an assessment of the effect that—

(A) the bilateral debts incurred during the regime of Saddam Hussein have on Iraq's ability to finance essential programs to rebuild infrastructure and restore critical public services, including health care and education, in Iraq; and

(B) forgiveness of such debts would have on the reconstruction and long-term prosperity in Iraq;

(4) a description of any commitment by a foreign country or international organization to forgive any part of a debt owed by Iraq if such debt was incurred during the regime of Saddam Hussein; and

(5) an assessment of the feasibility of repayment by Iraq—

(A) of bilateral debts incurred during the regime of Saddam Hussein; and

(B) of the funds contributed by the United States to finance infrastructure projects in Iraq.

Mr. STEVENS. Mr. President, this is an amendment we discussed earlier on the floor. I was ready to offer it earlier but was prevented. The amendment would require a report from the President concerning the efforts of the United States to increase resources that are available in Iraq from other countries, and to do other matters, such as a description of the bilateral impact on the Iraq action, the question of forgiveness of debts, and other items that we believe are substantial and on which we should have a report from the administration. These reports request no later than 120 days.

I will state for the information of the Senate, there are several amendments we are looking at that deal with reports. It is my hope that the conference committee will have a report section. I see in some of these amendments not a conflict but an overlapping of requests, and the timing of them is different. I do not believe we should put a requirement on these people to report one week on one item, another week on another item, and another week on another item when they are all related. We should have quarterly reports from the administration on what is going on with both sections of this bill and how the money is being handled.

This is a bill that has considerable discretion because it is a supplemental bill. It is in addition to the enormous bill we passed and the President already signed. Therefore, there is a lot of discretion as to where the money goes. It is a mechanism to avoid what has been done in the past, as I have said repeatedly.

In the past, Presidents have dipped into the money available to the Department of Defense and have used it in other places. We have taken the occasion to provide the money in advance and have allowed discretion of the President to put it in the places where it is needed and tell us 5 days before that happens and report to us later on how the money was actually used. Those reports will come to us. I am sure we will keep very good track of the people's money as we proceed.

Mr. President, so far as I am concerned, that is the last item to be considered tonight.

The ACTING PRESIDENT pro tempore. Is there further debate on the amendment? If not, the question is on agreeing to amendment No. 1808.

The amendment (No. 1808) was agreed to.

Mr. STEVENS. I move to reconsider the vote, and I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. STEVENS. Mr. President, the leader will shortly make a statement concerning the bill. As the manager of the bill, we have an understanding that tomorrow there will be a period during which Senators may bring amendments to the floor and offer them so they will be in the queue, so to speak. There will be no consideration of any amendment tomorrow and no vote on any amendment tomorrow.

The ACTING PRESIDENT pro tempore. The Senator from Michigan.

Mr. LEVIN. Mr. President, I voted for the McConnell amendment, as modified, because I believe that it is appropriate to recognize and commend the men and women of our Armed Forces for their bravery, professionalism and dedication during the military campaigns in Afghanistan and Iraq; to honor the sacrifice of those who died or were wounded and to convey our deepest sympathy and condolences to their families and friends; and to support the efforts of communities across the Nation who are honoring our troops.

Although I voted for the amendment, I want to make clear that I have some reservations about some parts of it. For example, I do not believe that the planning for the post-Saddam portion of the military campaign in Iraq was done well. Additionally, I want to note my concern that there may be unacceptable profiteering by some contractors in the post-Saddam period in Iraq.

MORNING BUSINESS

Mr. STEVENS. Mr. President, I ask unanimous consent that there now be a period for the transaction of morning business, with Senators permitted to speak therein.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. STEVENS. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. STEVENS. Mr. President, I ask unanimous consent that the order for the quorum call be dispensed with.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

LIBRARY OF CONGRESS NATIONAL BOOK FESTIVAL

Mr. STEVENS. Mr. President, I draw to your attention an important event that is taking place this Saturday, October 4 from 10 am until 5 pm—First Lady Laura Bush and the Library of Congress is holding the third annual National Book Festival on the National Mall.

The Library of Congress and Mrs. Bush have planned an enjoyable day of presentations by nearly 80 award-winning authors, illustrators, poets and storytellers.

Famous fiction, mystery and history writers will read from their works. Children's authors such as R.L. Stine, of the Goosebumps book series and actress and children's writer Julie Andrews will be among those participating. Storybook characters from PBS will stroll the grounds and greet young festivalgoers. There will even be special readings in the teens and children's pavilion by NBA players representing the National Basketball Association's ''Read To Achieve'' campaign.

Additional activities will include book signings, musical performances, storytelling, and panel discussions. I am especially interested to hear that specialists will be on hand from the Library's Veterans History Project to provide information about collecting oral histories of America's war veterans. There truly is something for everyone at this year's book festival.

The National Book Festival is free and open to the public and promises to be a wonderful family event. I hope that everyone will join Mrs. Bush and the Library of Congress on Saturday in celebration of the joy of reading.

For more information, you may visit the Library's Web site <*www.loc.gov*> or call toll-free (888) 714–4696.

MINIMUM PAY PROTECTION

Mr. HARKIN. Mr. President, we have some good news. The House of Representatives just a little while ago passed, by a substantial margin, a motion to instruct their conferees to adhere to the Senate's position saying that the administration cannot go ahead to implement the rules on overtime which would take away overtime pay protection for over 8 million Americans. The vote in the House was 221 to 203.

This is a great victory for American workers today. It sends a very clear message to the administration: Don't mess with overtime pay protection. Don't take away from American workers the overtime pay protection that we have had in the law since 1938. This is a clear and unequivocal message from both the House and the Senate.

I hope the administration has the message. I now call upon the Secretary of Labor to forthwith, today, by sundown tomorrow, go ahead and extend overtime pay protections to hundreds of thousands of Americans on the low-income side of the scale.

Right now, the low-income threshold is $8,060 a year. Part of the proposal the administration sent down would have raised that level to $21,100 a year. This is an issue on which we all agree. This is something the Secretary of Labor can do today, tomorrow, before the week is out. This can be done with a stroke of a pen.

I call upon the Secretary of Labor to immediately issue a new regulation that would raise the low-income threshold from $8,060 to $21,100 a year and thus cover many more Americans with overtime pay protection.

What the House has spoken so loudly today is what we did in the Senate a few weeks ago. We want to extend overtime pay protection to more Americans. We do not want to talk it away.

Let us move forward together, call upon the Secretary of Labor to issue these regulations to raise that threshold. Now the administration can take those proposed rules they came out with this spring and put them in the fireplace. Get rid of them. Then, if we want to move ahead, we can do it in two stages. Raise the threshold right now, and then if we need to modify and change some of the overtime regulations to reflect more accurately the modern day workplace, let's do it together, do it with open public hearings, have our witnesses, and do it in a deliberate manner that reflects the will of the American people, not under the cover of night, putting out proposed regulations without any hearings whatever.

I stand ready as a member of the Labor Committee, and on both the authorizing and appropriations side, to work with the Secretary of Labor and others to set up a route by which we can, if we need to, change and modify some of the regulations to more accurately meet today's workforce. But in no case should we diminish the overtime pay protections in the law today for people, in no way. We need to extend and raise that threshold immediately. That is what I call upon the Secretary of Labor to do.

It would be a great victory today for American workers who are lacking in a lot of good news coming out of Washington these days for working families. This is one bit of good news for American working families today.

I yield the floor.

RULEMAKING EXTENSION

Mr. STEVENS. Mr. President, I ask unanimous consent that the attached statement from the Office of Compliance be printed in the RECORD today pursuant to Section 303(b) of the Congressional Accountability Act of 1995 (2 U.S.C. 1383(b)).

There being no objection, the material was ordered to be printed in the RECORD, as follows:

OFFICE OF COMPLIANCE

THE CONGRESSIONAL ACCOUNTABILITY ACT OF 1995

Notice of Proposed Rulemaking—Extension of Period for Comment

A Notice of Proposed Rulemaking (NPR) for the proposed procedural regulations was published in the Congressional Record dated September 4, 2003. This notice is to inform interested parties that the Board of Directors of the Office of Compliance has extended the period for public comment on the NPR until October 20, 2003. Any questions about this notice should be directed to the Office of Compliance, LA 200, John Adams Building, Washington, DC 20540–1999; phone 202/724–9250; fax 202/426–1913.

TRIBUTE TO DR. OTIS SINGLETARY

Mr. MCCONNELL. Mr. President, I rise today to honor the life of a noted Kentuckian, a community leader, and a dedicated educator and administrator, Dr. Otis Singletary. I also want to take this opportunity to extend my condolences to his wife, Gloria, his three children, Bonnie, Robert, and Kendall, and all who knew and loved this remarkable man.

Dr. Singletary served his country in many capacities. A native of Mississippi, he joined the Navy at the outbreak of World War II and continued to serve in the Armed Forces through the Korean War. After earning his Ph.D., he taught history at the University of Texas. There the Students' Association recognized Dr. Singletary's talent and love for teaching and twice honored him with its Teaching Excellence Award. In 1958, he received the Scarborough Teaching Excellence Award.

An accomplished historian and published author, Dr. Singletary soon began to show his skills in administrative positions as well. After serving as the Associate Dean of Arts and Sciences at Texas, Dr. Singletary relocated to the University of North Carolina at Greensboro where he served as chancellor. In 1964, he took a leave of absence to direct the Federal Job Corps, Office of Economic Opportunity, under President Lyndon B. Johnson. Later, he served as the vice-president of the American Council on Education.

For most people this career would represent a lifetime worth of achievement, but Dr. Singletary was just getting started. He assumed the presidency of the University of Kentucky in 1969, a time of national campus unrest. While other college leaders faltered in the wake of the Kent State tragedy, Dr. Singletary successfully calmed the fears of his students and led the university forward. Under his guidance, the University of Kentucky prospered and became a nationally recognized research institution. To compensate for shrinking State funds, Dr. Singletary encouraged a vigorous fundraising campaign targeting private donors. He raised almost $140 million in his 18-year presidency. A selective admissions policy, endowed professorships, the expansion of library holdings, and an undergraduate honors program were all implemented during his tenure. Upon his retirement in 1987, Dr. Singletary had supervised over $250 million in new construction and renovation at UK, including facilities for the arts, biological sciences, equine research, agriculture, and cancer research.

Dr. Otis Singletary will forever be remembered for his unwavering dedication to the University of Kentucky, its faculty, staff, and its students. I ask each of my colleagues to join me in paying tribute to Otis Singletary, for all that he has given to his students, his community, and his Nation. He will be missed.

TRIBUTE TO JUSTICE ROBERT E. ROSE

Mr. REID. Mr. President, I take a moment to pay tribute to a long-time friend and Nevadan, Justice Robert E. ''Bob'' Rose, who is being honored by the Fellows of the American College of Trial Lawyers.

Justice Rose was elected to the Nevada Supreme Court in 1988. He was reelected in 1994 and again in 2000.

However, before Justice Rose was a member of the Nevada Supreme Court, he was elected Washoe County District Attorney and thereafter Lieutenant Governor of Nevada. In fact, he was my successor in that office.

After serving as Lieutenant Governor, he returned to the private practice of law for several years in Reno, NV.

In 1986, he was appointed District Court Judge for the Eighth Judicial District in Las Vegas by former Governor, who is also a former U.S. Senator, Richard Bryan.

The road to the Nevada Supreme Court started at a young age for Bob Rose. The dream began in 1964 when he clerked there for one year following his graduation from New York University Law School.

While he set his sights high, his path wasn't always an easy one. I remember during his tenure as Lieutenant Governor, he cast a vote in the Nevada State Legislature on a very controversial Equal Rights Amendment. It was 1977, and he cast the tie-breaking vote against it.

It is not always easy to live and work in the public spotlight, but he did what he felt was right. He has always been a man of courage and integrity.

In his time to date on the Nevada Supreme Court, he has served as Chief Justice, and he has earned a reputation as a ''reformer'' by creating the Nevada Judicial Assessment Commission for the study and improvement of the courts. He has also chaired and co-chaired the Committee to Establish Nevada Business Court and the Nevada Jury Improvement Commission, respectively.

Additionally, Justice Rose has been active with the Nevada Democratic Party, the American Cancer Society, and Nevada Easter Seal.

Today I would like to say to my friend, Bob, Justice Rose, congratulations on the honor you are receiving and good luck to you in all your future endeavors. As a lawyer and a Nevadan, I am proud to have you on our State Supreme Court.

LOCAL LAW ENFORCEMENT ACT OF 2003

Mr. SMITH. Mr. President, I rise today to speak about the need for hate crimes legislation. On May 1, 2003, Senator KENNEDY and I introduced the Local Law Enforcement Enhancement Act, a bill that would add new categories to current hate crimes law, sending a signal that violence of any kind is unacceptable in our society.

I would like to describe a terrible crime that occurred in Atlanta, GA. In May 2001, Ahmed Dabarran, a gay man who was a Fulton County Assistant District Attorney, was brutally beaten and murdered. Dabarran's perceived sexual orientation by his attacker was a motivating factor in his death. Sadly, even though his killer confessed to the crime, a Cobb County, GA, jury later acquitted him.

I believe that Government's first duty is to defend its citizens, to defend them against the harms that come out of hate. The Local Law Enforcement Enhancement Act is a symbol that can become substance. I believe that by passing this legislation and changing current law, we can change hearts and minds as well.

LESSONS OF 9/11 AND THE D.C. AREA SNIPER SHOOTINGS

Mr. KENNEDY. A year ago, the entire capital region was terrorized by unknown killers striking randomly, without warning, without any discernible pattern, and without mercy. Sadly, we know now that those savage murders could have been prevented.

On 9/11/2001, we had learned that the oceans could no longer protect us from the terrorism that has plagued other nations. We learned that our law enforcement agencies and our intelligence agencies were not adequately organized, trained, or prepared to identify the terrorists and prevent them from striking.

We learned, especially from the report of the Senate and House Intelligence Committees, that there were serious problems with information analysis and information sharing between agencies at the Federal, State and local levels, and even between Federal agencies.

As the FBI Director told the committees, no one can say whether the tragedy of 9/11 could have been prevented if all of the problems of our foreign and domestic intelligence and law enforcement agencies had been corrected before 9/11. But 9/11 was certainly a wakeup call to these agencies. They were on notice that, whatever the reasons for their failure to connect the many ''dots'' which their separate activities had uncovered before the terrorist attacks, they needed to change their ways.

The tragic DC area killings of a year ago, in which 13 people were shot and 10 lost their lives, provided a dramatic test of how well we had learned the lessons of 9/11. At the time, we had no way of knowing whether the shootings were the work of demented citizens, homegrown terrorists, or foreign terrorists bent on spreading mortal fear among the people.

In many ways, the law enforcement response was a model of the lessons already learned. Over 1,300 Federal agents of all types joined hundreds of State and local law enforcement personnel in a joint intensive effort to identify and apprehend the killers. The cooperation among law enforcement agencies in the area was close and seemingly effective.

But in some vital respects, the events of last October revealed shockingly that a year after 9/11, we had not yet filled obvious gaps in our day-to-day law enforcement and intelligence activities.

We had not made sure that all of the Nation's police agencies at all levels were communicating with each other with the fastest possible technology, and acting in real time to share the useful information they had gathered.

Unfortunately, too much of the national effort had been invested in arguing over broad and controversial new investigative and enforcement powers that threatened draconian violations of basic rights and liberties, with little benefit to homeland security.

These debates deflected attention from the urgent need to assure that every jurisdiction in the Nation has—and uses—full access to the vast array of already available Federal resources specifically designed to assist them in their local responsibilities. The DC sniper case showed us a year ago that we need even more focus on this very practical and achievable goal, and less focus on the distracting shortcuts urged on the Nation by those who believe we must sacrifice our rights to gain security.

A year ago, we learned again that the national law enforcement system is only as strong as its weakest link. If all jurisdictions everywhere are not full partners in the legitimate, practical, day-to-day operations of the existing national system for information sharing and Federal-State cooperation, each of us anywhere is at risk.

The information now available demonstrates that the enormous tragedies of a year ago might well have been entirely prevented if authorities in a State far from the Washington area had used the existing Federal resources available to them.

The fact is, on the night of September 21, 2002, 11 days before the sniper shootings began in the Washington area, the local police in Montgomery, AL, obtained a clear fingerprint of a suspect in a brutal robbery and murder. As we now know, that fingerprint matched a print on file in the FBI electronic matching system.

That information could have quickly led the authorities to Malvo and Muhammad, the two people later charged with the Washington area killings that began on October 2 that year.

A State crime laboratory with a few thousand dollars worth of proper hardware and free software from the FBI could have transmitted the Alabama fingerprint to the FBI system on Sunday morning, September 22. That system would have automatically compared the print with the 45 million prints in the system. The matching print could have been found and identified by the FBI by noon on that Sunday. In fact, the FBI's average response time on such print matches was 3 hours and 16 minutes last year.

The FBI's State assistance program makes it easy and inexpensive for a State to transmit unidentified prints directly to the automated fingerprint system. The Justice Department even provides grants to help with the costs.

But 15 States, including the State of Alabama, are not yet fully connected to the FBI system. They cannot transmit the fingerprints found at crime scenes directly to the FBI's automated 24-hour-a-day fingerprint searching system.

In the Alabama case, had the full facilities available from the Federal Government been utilized, look-out alerts or arrest warrants for the Alabama murder suspects could have been circulated throughout the Nation some time between September 22 and September 24, followed quickly by the description and license plate number of the car they were using.

In other words, at least 7 full days before the first shooting in the Washington area, Federal, State and local law enforcement agencies could have identified Muhammad and Malvo and could have been searching urgently for them, because they were wanted for the robbery/murder in Alabama. Tragically, we now know that local police officers in two other States made traffic stops of the suspects' car and checked the driver's license and plates with the national databases during those 7 days. But because the readily available national system had not been used, those checks produced no response. Malvo and Muhammad were not apprehended, and the DC area sniper shootings took place.

It is not my purpose to single out Alabama for special blame. This is a national problem. Fifteen States are not fully connected to the FBI's electronic matching system. Many other States may not take full advantage of this and other Federal resources.

The FBI spent $640 million building its fingerprint system, because it persuaded Congress that ''if we build it they will come.'' The system works well beyond the planners' dreams. It usually responds on a ten-fingerprint check of an arrested suspect within 20 minutes. It usually reports on an unknown single fingerprint within about 3 hours.

Thirty-five States are fully using this valuable resource. They use the system routinely and automatically, because as one police official put it, ''You catch bad guys'' this way. In fact, some police departments sent the FBI all the old unidentified prints they had as soon as they connected to the system. Time after time, even very old prints from unsolved cases were matched with prints in the system, and old crimes were finally solved.

On this sad anniversary of the DC sniper shootings, I hesitate to discuss these painful facts, when the victims' families are still grieving. But I, too, have been where they are now, and so I feel I can speak the painful truth, the truth that will teach us how to make the future better than the past.

The truth is that we now know this tragedy could have been prevented—not by tougher laws or more intrusive investigative powers, not by ethnic or racial profiling, but by strengthening and fully using the effective systems we already have in place.

Attorney General Ashcroft wants even more law enforcement powers that will threaten still more basic rights. But I say, let's fix the nuts and bolts of the system we already have. It is a scandal that 15 of our States are still not fully linked to the FBI system. The financial cost is small, and Federal grants are available to defray it and pay the cost of any training that is needed. Hopefully, no such avoidable tragedy will ever happen again, and the victims we mourn and honor today will not have died in vain.

CHANGE IN INTERNET SERVICES USAGE RULES AND REGULATIONS

Mr. LOTT. Mr. President, I wish to announce that in accordance with title V of the Rules of Procedure, the Committee on Rules and Administration intends to update the ''U.S. Senate Internet Services Usage Rules and Regulations.''

Based on the committee's review of the 1996 regulations, the following changes to these policies have been adopted effective October 8, 2003.

The following changes have been made:

A. SCOPE AND RESPONSIBILITY:

Senate Internet Services (World Wide Web and Electronic mail) may only be used for official purposes. The use of Senate Internet Services for personal, promotional, commercial, or partisan political/campaign purposes is prohibited.

Members of the Senate, as well as Committee Chairmen and Officers of the Senate may post to the Internet Servers information files which contain matter relating to their official business, activities, and duties. All other offices must request approval from the Committee on Rules and Administration before posting material on the Internet Information Servers.

Websites covered by this policy must be located in the SENATE.GOV host-domain.

It is the responsibility of each Senator, Committee Chairman (on behalf of the committee), Officer of the Senate, or office head to oversee the use of the Internet Services by his or her office and to ensure that the use of the services is consistent with the requirements established by this policy and applicable laws and regulations.

Official records may not be placed on the Internet Servers unless otherwise approved by the Secretary of the Senate and prepared in accordance with Section 501 of Title 44 of the United States Code. Such records include, but are not limited to: bills, public laws, committee reports, and other legislative materials.

B. POSTING OR LINKING TO THE FOLLOWING MATTER IS PROHIBITED:

Political Matter.

a. Matter which specifically solicits political support for the sender or any other person or political party, or a vote or financial assistance for any candidate for any political office is prohibited.

b. Matter which mentions a Senator or an employee of a Senator as a candidate for political office, or which constitutes electioneering, or which advocates the election or defeat of any individuals, or a political party is prohibited.

Personal Matter.

a. Matter which by its nature is purely personal and is unrelated to the official business activities and duties of the sender is prohibited.

b. Matter which constitutes or includes any article, account, sketch, narration, or other text laudatory and complimentary of any Senator on a purely personal or political basis rather than on the basis of performance of official duties as a Senator is prohibited.

c. Reports of how or when a Senator, the Senator's spouse, or any other member of the Senator's family spends time other than in the performance of, or in connection with, the legislative, representative, and other official functions of such Senator is prohibited.

d. Any transmission expressing holiday greetings from a Senator is prohibited. This prohibition does not preclude an expression of holiday greetings at the commencement or conclusion of an otherwise proper transmission.

Promotional Matter.

a. The solicitation of funds for any purpose is prohibited.

b. The placement of logos or links used for personal, promotional, commercial, or partisan political/campaign purposes is prohibited.

C. RESTRICTIONS ON THE USE OF INTERNET SERVICES:

During the 60 day period immediately preceding the date of any primary or general election (whether regular, special, or runoff)

for any national, state, or local office in which the Senator is a candidate, no Member may place, update or transmit information using Senate Internet Services, unless the candidacy of the Senator in such election is uncontested. Exceptions to this moratorium include the following; posting of press releases, posting of official statements of the member appearing in the Congressional Record, and technical corrections to the website.

Electronic mail may not be transmitted by a Member during the 60 day period before the date of the Member's primary or general election unless it is in response to a direct inquiry. Exceptions to this moratorium include the following; press release distribution to press organizations, and email to perform administrative communication.

During the 60 day period immediately before the date of a biennial general Federal election, no Member may place or update on the Internet Server any matter on behalf of a Senator who is a candidate for election, unless the candidacy of the Senator in such election is uncontested.

An uncontested candidacy is established when the Rules Committee receives written certification from the appropriate state official that the Senator's candidacy may not be contested under state law. Since the candidacy of a Senator who is running for reelection from a state which permits write-in votes on election day without prior registration or other advance qualification by the candidate may be contested, such a Member is subject to the above restrictions.

If a Member is under the restrictions as defined in subtitle C, paragraph (1), above, the following statement must appear on the homepage: (''Pursuant to Senate policy this homepage may not be updated for the 60 day period immediately before the date of a primary or general election''). The words ''Senate Policy'' must be hypertext linked to the Internet services policy on the Senate Home Page.

A Senator's homepage may not refer or be hypertext linked to another Member's site or electronic mail address without authorization from that Member.

Any Links to Information not located on a senate.gov domain must be identified as a link to a non-Senate entity.

D. MISCELLANEOUS:

Domains and Names (URL)—Senate entities shall reside on SENATE.GOV domains. The URL name for an official Web site located in the SENATE.GOV domain must:

Member sites—contain the Senator's last name.

Committee sites—contain the name of the committee.

Office sites—contain the name of the office.

HONORING OUR ARMED FORCES

Mr. DODD. Mr. President, it is with a heavy heart that I rise to speak in memory of U.S. Army Sgt Travis Friedrich, of Naugatuck, CT, who was killed fighting for his country in Iraq on Saturday, September 20. He was 26 years old.

Like so many of our brave men and women who are serving overseas today, Sgt Friedrich was a reservist. He was a graduate student at the University of New Haven, working on his degree in forensic science, and was also working full-time as a laboratory technician in Waterbury.

When he was summoned to active duty in January, he left behind family and friends who loved him, and a promising education and career. But Sgt Friedrich answered his country's call and he did so in exemplary fashion.

Sgt Friedrich grew up in Hammond, NY, and was a shining star in both academics and athletics. He graduated from Brockport State College, majoring in chemistry and criminal justice, and came to Connecticut 3 years ago with dreams of becoming an investigator in law enforcement. Tragically, it was a dream he would not live to fulfill.

Everyone who knew Travis Friedrich said that he represented the best of the American armed forces and, indeed, the best of America. His friends remembered his sense of humor, and his leadership as co-captain of his college crew team. He also had a tremendous work ethic whether he was on the field of battle, in a classroom, or on the job. And he loved his family and friends, just as he loved his country.

When people like Travis Friedrich make the decision to enlist in our armed forces, they do so knowing that one day, they could be called upon to make profound sacrifices—and possibly the ultimate sacrifice—for this nation, and the values and freedoms that we represent.

That's not an easy decision to make, but for an individual with the courage and the integrity of Travis Friedrich, it was a natural one. ''Wherever I go,'' Sergeant Friedrich once said, ''I want to do my share.'' He did his share, and much, much more.

I salute Travis Friedrich for his bravery, his heroism, and his service to his country. I offer my most sincere condolences to his parents, David and Elizabeth, and to all of his friends and family.

Mr. THOMAS. Mr. President, I rise today to express our Nation's deepest thanks and gratitude to a young man and his family from Casper, WY. On September 23rd, 2003, Cpt Robert L. Lucero was killed in the line of duty in Iraq. While searching a building in Tikrit, Captain Lucero was fatally wounded by an explosive device that took his life and injured another soldier.

Captain Lucero was a member of the Wyoming National Guard, and was the very model of the citizen soldier. He was a vibrant young man who loved being outdoors and was an avid hunter and fisherman. He loved his family and his country. Captain Lucero had a profound sense of duty and felt a strict obligation to his country and his job as an American soldier.

It is because of people such as Captain Lucero that we continue to live safe and secure. America's men and women who answer the call of service and wear our Nation's uniform deserve respect and recognition for the enormous burden that they willingly bear. Our people put everything on the line everyday, and because of these folks, our Nation remains free and strong in the face of danger.

Captain Lucero is survived by his wife Sherry and his mother Lois Ann, as well as many family and friends. We way good bye to a son, a husband, a brother, a soldier, and an American. Our Nation pays its deepest respect to Cpt Robert L. Lucero for his courage, his love of country and his sacrifice, so that we may remain free. He was a hero in life and he remains a hero in death. All of Wyoming, and indeed the entire Nation was proud of him.

ESSENTIAL AIR SERVICE PROGRAM

Ms. SNOWE. Mr. President, I rise today in strong support of the statement and efforts of my colleague from New Mexico, Senator BINGAMAN, on behalf of the Essential Air Service, EAS, program.

Throughout my time in Congress, I have been a strong supporter of EAS, which provides subsidized air service to 125 small communities in the country, including four in Maine—Augusta, Rockland, Bar Harbor and Presque Isle—that would otherwise be cut off from the nation's air transportation network. As approved in May by the Senate Commerce Committee, the Federal Aviation Administration reauthorization bill reauthorized and flat-funded the program for 3 years, and includes certain changes to the program, which are drastically scaled back from what the Administration proposed earlier this year for EAS ''reform.'' The Administration had called for EAS towns to provide up to 25 percent matching contributions to keep their air service.

The Commerce Committee bill creates a number of new programs to help EAS communities grow their ridership, including a marketing incentive program that would financially reward EAS towns for achieving ridership goals. With regard to local cost-sharing—the centerpiece of the Administration's EAS proposal—the Commerce bill would create a pilot program to allow for a 10 percent annual community match at no more than 10 airports within 100 miles of a large airport.

While the cost-sharing provisions in the committee bill are much less strict than the Administration proposal, and could only be applied to a EAS community under certain specific conditions, I remain concerned about the concept of requiring EAS towns—some of which are cash-strapped and economically depressed—from kicking in hundreds of thousands of dollars annually to keep their air service. For example, if Augusta or Rockland, ME, were to be chosen for the cost-sharing pilot program, they would have to come up with more than $120,000 annually to retain their air service.

As such, on the floor I supported Senator BINGAMAN's amendment to strike the cost-sharing section from the bill and was pleased when it was approved unanimously by the full Senate. The House adopted an identical amendment

offered by Representative PETERSON. And I felt so strongly about this issue that in late July I circulated a letter to the FAA conferees, signed by 15 other Senators, expressing strong opposition to having mandatory EAS cost-sharing language in the final legislative package. As such, I was extremely disappointed when that same language found itself into the FAA conference report issued on July 25.

Mr. President, the EAS program is not perfect, and Congress certainly needs to do all we can to keep the costs and subsidy levels associated with the program as low as possible. I look forward to working with members of the Commerce Committee and the Senate on the issue, but I continue to believe that requiring cost-sharing in today's economy and today's aviation environment is clearly a wrong-headed approach.

I also wanted to take this opportunity to address the larger issue of the importance of air service to America's small communities. As we work to address the vital aviation issues facing the country, we cannot forget the challenges that small communities in Maine, and throughout the Nation, face in attracting and retaining air service. I have always believed that adequate, reliable air service in our Nation's rural areas is not simply a luxury or a convenience. It is an imperative. And quite frankly, I have serious concerns about the impact deregulation of the airline industry has had on small- and medium-sized cities in rural areas, like Maine. The fact is, since deregulation, many of these communities in Maine, and elsewhere, have experienced a decrease in flights and size of aircraft while seeing an increase in fares. More than 300 have lost air service altogether.

Many air carriers are experiencing an unprecedented financial crisis, and the first routes on the chopping block will be those to small- and medium-sized communities. This will only increase demand for the two existing Federal forms of assistance, EAS and the Small Community Air Service Grant Program.

In short, when considering this legislation, I believe that we need to do all we can to help small communities maintain their access to the national transportation system during these difficult times. Mandatory EAS cost-sharing would have the opposite effect, and I hope that the conferees strip it out should the bill be recommitted to conference.

MOTHER TERESA OF CALCUTTA

Mrs. BOXER. Mr. President, I rise to speak in praise of the late Mother Teresa of Calcutta, who will be canonized as a Roman Catholic saint later this month.

Her life and work were a blessing to everyone, regardless of creed or religion. No one who ever saw her—even on television—will ever forget Mother Teresa: the tiny nun with the wrinkled face, beaming smile, and penetrating eyes filled with love and understanding. And no one who learned of her work among the poorest of the poor will ever forget her gentle challenge to us all to do more for our fellow human beings.

Mother Teresa inspired us not only by her good works but by the spirit of love and respect for every individual that permeated her work. As she herself said in accepting the 1979 Nobel Peace Prize, ''Love begins at home, and it is not how much we do, but how much love we put in the action that we do.'' She accepted the prize ''in the name of the hungry, the naked, the homeless, of the crippled, of the blind, of the lepers, of all those people who feel unwanted, unloved, uncared-for throughout society, people who have become a burden to the society and are shunned by everyone.''

In presenting the prize to Mother Teresa, Chairman John Sanness of the Norwegian Nobel Committee noted: ''The hallmark of her work has been respect for the individual's worth and dignity. . . . In her eyes the person who, in the accepted sense, is the recipient, is also the giver, and the one who gives most. Giving—giving something of oneself—is what confers real joy, and the person who is allowed to give is the one who receives the most precious gift.''

In her final years, Mother Teresa focused her attention and prodigious energy on establishing hospice programs for people with AIDS. ''It is a terrible tragedy to have AIDS,'' she said, ''but it is worse to be unloved.'' Perhaps more than any other person, Mother Teresa changed the way that the world sees AIDS. The broad, bipartisan support for international AIDS programs that has emerged in the United States Congress is largely a result of her work and message of love and compassion.

FAA REAUTHORIZATION

Mr. BINGAMAN. Mr. President, I would like to speak for a few minutes on the pending reauthorization of the Federal Aviation Administration. A conference report on HR 2115 was filed back in July, and since then there has been no further action in either house of Congress.

As I see it, the problem with the bill is that the conferees on the part of the majority chose to conduct a back-room conference without the participation of the minority. This was a flawed process, and the result is a conference report that can't pass either the House or the Senate. The House is now poised to recommit the bill to the conference. Meanwhile, Congress had to pass a short-term extension of FAA's administration just to keep the agency in operation.

I think by now all Senators are aware of the many concerns that have been raised over the FAA conference report. On a number of key measures, the conferees ignored the will of the majority in the House and the Senate and arbitrarily inserted provisions that both houses had voted to oppose. I believe adding such extraneous and objectionable provisions is an egregious violation of the conference process. All Senators should be offended by what the conferees did in this case.

Senator REID spoke Tuesday about the conferees' rejection of House- and Senate-passed provisions regarding privatization of federal air traffic controllers. I was pleased to support Senator LAUTENBERG's bipartisan amendment on this issue, which passed the Senate 56 to 41. I want to reinforce what my colleague Senator REID said yesterday about the air traffic control system. The privatization issue must be dealt with fairly, or the bill will not pass the Senate.

Another particularly egregious violation of the conference process was a provision the conferees added affecting the Essential Air Service program, which helps small, rural communities maintain their vital commercial air service. In my State, five communities participate in EAS: Alamogordo, Carlsbad, Clovis, Hobbs, and Silver City. For these communities, commercial air service provides a critical link to the national and international transportation network that would not otherwise exist.

The FAA reauthorization bill originally reported by the Senate Commerce Committee would have required EAS communities for the first time to pay to maintain their commercial air. In my view, this ill-timed proposal would have jeopardized existing commercial air service in many rural areas. Across America, our small communities are facing depressed economies and declining tax revenues and are simply not in a position to pay for their commercial air service.

To help preserve essential air service, Senator INHOFE and I offered an amendment with 13 cosponsors that struck out the mandatory cost-sharing language. Our bipartisan amendment was adopted on a voice vote. In parallel, Representatives MCHUGH, PETERSON of Pennsylvania, and SHUSTER offered an amendment that struck out similar mandatory cost-sharing language in the House's bill.

As a followup to our amendment, Senator SNOWE and I, along with Senators NELSON of Nebraska, BUNNING, SCHUMER, BROWNBACK, LINCOLN, JEFFORDS, CLINTON, INHOFE, LEAHY, PRYOR, COLLINS, HAGEL, GRASSLEY, and HARKIN, sent a bipartisan letter to the chairman and ranking member of the Commerce Committee reinforcing our strong opposition to mandatory cost-sharing for EAS communities.

Most students of Government would tell you that when a majority of both houses of Congress have voted against a particular measure, the conferees couldn't arbitrarily put it back in. Well, they did. Section 408 of the conference report basically restores the very cost-sharing language both

Houses one month before had voted to reject.

This week, with the FAA conference report soon going to be recommitted to the conference, 16 Senators wrote to the conferees expressing grave concern over the restoration of the mandatory cost-sharing language and urging them to drop this harmful provision before the conference report is brought back to the full House and Senate. Thirty-five members of the House signed a similar bipartisan letter.

I want to pass an FAA reauthorization bill. The FAA plays an important role in assuring the safety of the traveling public. At the same time, New Mexico's 51 airports are in desperate need of the Federal funding provided under the FAA's Airport Improvement Program. I hope all Senators are aware that AIP was not extended under the first continuing resolution, and all new airport construction projects are on hold pending the reauthorization. With the serious unemployment situation the Nation faces, this is no time to shut down the jobs these vital airport construction projects produce.

I've come to the floor today to urge the conferees to work together in a bipartisan manner to produce a conference report that all Senators can support. Inserting controversial measures in conference that are opposed by both houses has left us with an FAA conference report that is essentially dead. In my opinion, imposing mandatory cost sharing for EAS communities, which a majority in both houses rejected, will only delay further the FAA reauthorization bill.

I do believe that by returning the FAA bill to conference we can begin to work in a bipartisan manner to restore integrity to the conference process that all Senators should demand. When this bill goes back to conference, I urge the FAA conferees to do the right thing for rural communities across America by preserving the Essential Air Service Program.

I ask unanimous consent to print the above-referenced letters in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

U.S. SENATE,
Washington, DC, July 24, 2003.

Hon. JOHN MCCAIN,
Chairman, U.S. Senate Committee on Commerce, Science and Transportation, U.S. Senate, Washington, DC.

Hon. ERNEST HOLLINGS,
Ranking Member, U.S. Senate Committee on Commerce, Science and Transportation, U.S. Senate, Washington, DC.

DEAR GENTLEMEN: We want to thank you for your leadership in developing S. 824, ''The Aviation Reinvestment and Revitalization Vision Act'' (AIR–V). As you lead the Senate conferees and complete work on settling differences in the House companion, H.R. 2115, we want to express our support for the Senate position and our strong opposition to the inclusion of any Essential Air Service (EAS) mandatory cost-sharing language in the final legislative package.

As you know, EAS provides subsidized commercial air service to 125 small communities nationwide that would otherwise be cut off from the air transportation network. The Committee-reported version of S. 824 includes a number of innovative provisions to help EAS communities grow their ridership, including a marketing incentive program that would financially reward EAS towns for achieving ridership goals. At the same time, the Committee's bill proposed a pilot program requiring a 10 percent annual community cost-sharing requirement at EAS airports within 100 miles of any hub airport. In the end, the full Senate did not endorse the concept of an annual local community match, having on June 12 unanimously approved an amendment offered by Senators BINGAMAN and INHOFE to strike the EAS cost-sharing provisions in S. 824. In addition, the House passed its FAA Reauthorization bill after voting not to include cost-sharing for EAS.

While the Commerce Committee's proposed cost-sharing would have only applied to an EAS community under certain specific conditions, we remain concerned about the concept of mandatory cost-sharing. Some of these cash-strapped communities in economically depressed rural areas of our states would be unable to contribute the hundreds of thousands of dollars necessary to keep their air service. As such, we ask that the final version of the FAA Reauthorization legislation reflect the Senate's position on this issue and not include any EAS cost-sharing language.

We look forward to working with you and other members of the Senate Commerce Committee on modernizing and strengthening the EAS program. Thank you for your consideration of our views on this issue and we hope they will be considered during the upcoming conference committee.

Sincerely,

Olympia Snowe, Jeff Bingaman, E. Benjamin Nelson, Jim Bunning, Charles Schumer, Sam Brownback, Blanche L. Lincoln, James M. Jeffords, Hillary Rodham Clinton, Jim Inhofe, Patrick Leahy, Mark Pryor, Susan Collins, Chuck Hagel, Chuck Grassley, Tom Harkin.

U.S. SENATE,
Washington, DC, September 29, 2003.

Hon. JOHN MCCAIN,
Chairman, Committee on Commerce Science and Transportation, Dirksen Office Building, Washington, DC.

Hon. ERNEST F. HOLLINGS,
Ranking Member, Committee on Commerce Science and Transportation, Dirksen Office Building, Washington, DC.

Hon. DON YOUNG,
Chairman, Committee on Transportation and Infrastructure, Rayburn House Office Building, Washington, DC.

Hon. JAMES OBERSTAR,
Ranking Member, Committee on Transportation and Infrastructure, Rayburn House Office Building, Washington, DC.

GENTLEMEN: We write out of grave concern for a provision added to the Vision 100—Century of Aviation Reauthorization conference report regarding the adoption of a local cost share for certain Essential Air Service communities. This addition to the conference report not only goes against the will of both the House and the Senate, but may also have a disastrous effect on many of our small rural airports. Therefore, we urge the conference committee to remove this language before bringing the report to the respective floors for a vote.

The local cost share provision was removed from S. 824 by a bipartisan amendment offered by 15 senators, which passed on a voice vote. Likewise, a similar local cost share provision was removed from H.R. 2115 by an amendment offered by Representatives McHugh, Peterson (PA) and Shuster.

It is our understanding that negotiations are currently under way to remove language from the conference report regarding the privatization of air traffic controllers. This provides the conference committee an excellent opportunity to remove the EAS local match provision that was already stricken on both the House and Senate floors and not included in either bill brought to the conference committee.

Additionally, this provision will have untold effects on many small rural communities. It is unacceptable to force communities to pay up to $100,000 in a local cost share, in addition to the many costs they currently incur in running a small local airport.

We respectfully request the removal of Section 408 from the Vision 100—Century of Aviation Reauthorization Act conference report before it is brought to the House and Senate floors for consideration, and we look forward to working with you in the future to ensure rural communities continue to receive essential air service.

Sincerely,

Jeff Bingaman, Olympia Snowe, Hillary Rodham Clinton, Patrick Leahy, Blanche L. Lincoln, Jim Jeffords, Mark Pryor, Tom Harkin, Charles Schumer, Tom Daschle, Arlen Specter, E. Benjamin Nelson, Susan M. Collins, Chuck Grassley, Mark Dayton, Chuck Hagel.

CONGRESS OF THE UNITED STATES,
Washington, DC, September 24, 2003.

Hon. JOHN MCCAIN,
Chairman, Committee on Commerce Science and Transportation, Dirksen Office Building, Washington, DC.

Hon. FRITZ HOLLINGS,
Ranking Member, Committee on Commerce Science and Transportation, Dirksen Office Building, Washington, DC.

Hon. DON YOUNG,
Chairman, Committee on Transportation and Infrastructure, Rayburn House Office Building, Washington, DC.

Hon. JAMES OBERSTAR,
Ranking Member, Committee on Transportation and Infrastructure, Rayburn House Office Building, Washington, DC.

DEAR CHAIRMAN YOUNG, CHAIRMAN MCCAIN, RANKING MEMBER OBERSTAR, RANKING MEMBER HOLLINGS: We write out of grave concern for a provision added to the Vision 100-Century of Aviation Reauthorization Conference Report regarding the adoption of a local cost share for certain Essential Air Service communities. This addition to the conference report not only goes against the will of both the House and the Senate, but may also have a disastrous effect on many of our small rural airports. Therefore, we urge the conference committee to remove this language before bringing the report to the respective floors for a vote.

As you known, the local cost share provision was removed in H.R. 2115 by an amendment offered by Representatives McHugh, Peterson (PA) and Shuster, which passed by a voice vote. Likewise, a similar local cost share provision was removed from S. 824 by an amendment offered by Senator Bingaman.

It is our understanding that negotiations are currently under way to remove language from the conference report regarding the privatization of air traffic controllers. This provides the conference committee an excellent opportunity to remove the EAS local match provision that was already stricken on both the House and Senate floors and not included in either bill brought to the conference committee.

Additionally, this provision will have untold affects on many small rural communities. It is unacceptable to force communities to pay up to $100,000 in a local cost share, in addition to the many costs they currently incur in running a small local airport.

We respectfully request the removal of Section 408 from the Vision 100—Century of Aviation reauthorization Act Conference Report before it is brought to the House and Senate floors for consideration and we look forward to working with you in the future to ensure rural communities continue to receive essential air service.

Sincerely,

John E. Peterson, Allen Boyd, John McHugh, Jerry Moran, Bill Shuster, Chris Cannon, John Shimkus, Marion Berry, Barbara Cubin, Charles F. Bass, Ron Paul, John Tanner, Frank D. Lucas, Scott McInnis, Kenny C. Hulshof, Rick Renzi, Rob Bishop, Dennis A. Cardoza, Jim Gibbons, Jim Matheson, Ed Case, Anibal Acevedo-Vilá, Mike Ross, Tom Udall, Lane Evans, Timothy Johnson, Bernie Sanders, John Boozman, Tom Latham, Heather Wilson, Ron Lewis, Jo Ann Emerson, Doug Bereuter, Bart Stupak, Collin C. Peterson.

INDEPENDENT COMMUNITY PHARMACIES

Mr. PRYOR. Mr. President, I rise today to acknowledge our Nation's independent community pharmacists for their diligent work, expansion of services, and consistent high quality service.

Independent community pharmacies are a strong part of our health care delivery system and a significant part of local economies. In fact, independent pharmacies, independent pharmacy franchises, and independent chains represent a $67 billion marketplace. Clearly, independent pharmacies create jobs while providing high quality services to consumers.

Independent community pharmacies play a critical role in local communities, a role which has enhanced the level and quality of pharmacist-patient personal interactions and has led to high satisfaction rates from consumers. Independent pharmacies should be commended for their accessibility, immense knowledge about medications, and broad inventories of medications. These observations were validated by more than 32,000 readers surveyed by Consumer Reports, which found that ''more than 85 percent of customers at independent drugstores were very satisfied or completely satisfied with their experience.''

Pharmacists are health care professionals who consistently strive to improve care and promote the safe use of drugs. In addition to dispensing medications, many independent pharmacies offer other services to meet the needs of their customers. This includes providing health screenings, disease management information, and even home delivery.

I am honored today to recognize the achievements of independent pharmacies for their excellent job in serving the pharmaceutical and other health care needs of consumers in their communities. As Congress moves forward with enacting a Medicare prescription drug benefit, it is essential that we preserve the quality care being provided by community pharmacies.

Mr. President, I ask unanimous consent to print in the RECORD an article from the October 2003 issue of Consumer Reports.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

TIME TO SWITCH DRUGSTORES?

If you're among the 47 percent of Americans who get medicine from drugstore giants such as CVS, Eckerd, and Rite Aid, here's a prescription: Try shopping somewhere else. The best place to start looking is one of the 25,000 independent pharmacies that are making a comeback throughout the U.S.

Independent stores, which were edging toward extinction a few years ago, won top honors from Consumer Reports readers, besting the big chains by an eye-popping margin. More than 85 percent of customers at independent drugstores were very satisfied or completely satisfied with their experience, compared with 58 percent of chain-drugstore customers.

Many supermarket and mass-merchant pharmacies also did a better job than the best-known conventional chains at providing caring, courteous, knowledgeable, and timely service. And in a nationwide price study we conducted, the chains we evaluated charged the highest prices—even slightly more than the independents.

Those findings come from our latest investigation into the best places to shop for prescription medications. More than 32,000 readers told us about more than 40,000 experiences at 31 national and regional drugstore chains (like CVS, Genovese, Osco, Rite Aid, and Walgreens); supermarket-pharmacy combos (such as Kroger, Publix, and Safeway); mass-merchant pharmacies (like Costco, Target, and Wal-Mart); and independent pharmacies across the nation.

For most consumers, insurance covers at least some of the cost of prescription drugs, so our Ratings emphasize service factors that affect everyone. For consumers who have to pay more than a small percentage of their prescription-drug costs, including more than a third of our readers, our price study indicated where to save money. (See Where to shop, how to save.)

Among the other highlights of our research:

Some of the drugstore chains and supermarkets that readers favored are family owned or businesses in which workers have a stake. Medicine Shoppe, the top ''chain,'' is actually a collection of about 1,000 individually owned and operated stores with a common parent company. Among supermarkets, high-rated Wegmans (in New Jersey, New York, and Pennsylvania) is family owned; and at high-rated Publix (in the South), most workers are stockholders.

Forty percent of readers said that at least once during the past year, their drugstore was out of the medicine they needed.

Our market basket of a month's worth of five widely prescribed medications cost $377 to $555, depending on where we shopped. For a family needing all five drugs, that difference would exceed $2,000 a year.

SORTING OUT THE STORES

Most people start by searching for a store that accepts their insurance plan. Fortunately, that isn't the hassle it used to be, especially since independents are accepting more plans these days. Insurers once considered the disparate stores too much trouble to work with, but they realized that keeping independents out of their networks alienated customers and didn't cut costs as much as they'd hoped. Also, 33 states have adopted ''any willing provider'' laws, which require insurance companies to take into their networks any pharmacy that's willing to accept the insurer's reimbursement rate. As a result, you have a greater choice of where and how to shop.

The basic choices:

Independents: Service is all. Prescription drugs are the independents' lifeblood, accounting for 88 percent of sales. That means independents can be a good source of hard-to-find medications. (The chains, where drugs account for 64 percent of sales, tend to focus on the 200 most-prescribed drugs.)

That focus on prescriptions can mean more personal attention. Readers said that pharmacists at independent stores were accessible, approachable, and easy to talk to, and that they were especially knowledgeable about medications, both prescription and nonprescription.

The independents (and some chains) offer extras such as disease-management education, in-store health screenings for cholesterol, services such as compounding (customizing medications for patients with special needs), and home delivery.

Many independents are affiliated with programs such as Good Neighbor or Value-Rite, whose names you'll see in the stores. These ''banner'' programs, offered by wholesale product suppliers, help independents with marketing and with the sale of private-label products, improving purchasing power and name recognition much the way ServiStar and True Value help small hardware stores compete with Home Depot and Lowe's.

About half of the nation's independents have Web sites, where you can generally order medicine and find some health information but not much more.

Chains: Convenient but crowded. With about 20,000 stores nationwide, mega-drugstores are in nearly everyone's backyard. Many are open around the clock, have a drive-through pharmacy for faster pickup, and let you order online or by punching a few numbers on a telephone. You can even set up your Web account to have renewals automatically processed and readied for pickup or mailing. The biggest chains let you check prices online. Another advantage: The chains accept payment from lots of health plans (managed care pays for 80 percent of all conventional-chain prescriptions).

Now for the drawbacks. The chains' locations in populous areas and their acceptance of a plethora of plans has made them, in effect, too popular, and service is suffering. Except for Medicine Shoppe, chains typically made readers wait longer, were slower to fill orders, and provided less personal attention than other types of drugstores.

Like other drugstores, the chains have experienced shrinking reimbursement from insurers. They've helped maintain profits by selling everything from milk to Halloween costumes. That makes one-stop shopping possible (if your list isn't too specific), but it also can create bottlenecks at the checkout.

Supermarkets: One stop does it. There are fewer than 9,000 supermarkets that include a pharmacy, but the number is rising. One-stop shopping is the attraction. Many supermarkets put the pharmacy near the entrance for easy access and to attract store traffic. For those very reasons, however, you may not have as much privacy to consult with the druggist as you would elsewhere.

Supermarkets have online pharmacy sites, usually as a link from the home page, but they're often less comprehensive than those of big drugstore chains.

Mass merchants: Low price is key. Like supermarkets, these stores sell a wide variety of goods. But their main draw is low prices. One in five readers who bought medication from a mass merchant had no prescription-drug coverage. In our price study, only Web sites sold medications as cheaply. In our survey, ShopKo and Target were among the high-rated mass merchants; Wal-Mart was worse than most others.

All of the mass merchants in our survey have Web sites for ordering prescriptions, but only the Costco site lets you check drug prices.

Online: Low prices, no face time. Virtual pharmacies come in two basic flavors. There are adjuncts to brick-and-mortar stores, where you can order online and receive your prescription by mail or pick it up. Then there are sites such as www.drugstore.com and www.aarppharmacy.com, which have no store and simply mail the medicine to you. With both types of site, you can enter the name and quantity of the drug online; a pharmacist will confirm the prescription with your doctor. (Often, you can fax or mail a paper prescription instead and wait for it to be approved, but that can add days to the process.)

Anytime you're not picking up from a pharmacist, you lose a chance for personal contact, a consideration if you're using a medication for the first time or are juggling medications. To compensate, the stand-alone Web sites—and those operated by the drug chains and some mass merchants—make it easy to e-mail questions to pharmacists 24/7, research medical topics, search online for potentially dangerous drug interactions, receive e-mail refill reminders, keep track of your medications, and note any drug allergies. Drugstore.com will also alert you if the branded drug you're taking becomes available in generic form.

It can take as little as a couple of hours for your medicine to be ready if you order from a chain and are willing to retrieve it, or as long as three to five business days if you ask for it to be mailed standard shipping. That's free or nearly so. You can pay about $15 to have medicine overnighted (refrigerated medicines must be sent that way). Web sites can't ship every controlled substance.

When you use a Web site, you can avoid waiting in line, of course, and you'll tend to pay lower prices, even when shipping costs are included. No computer? No problem. Sites have toll-free numbers.

Four percent of our readers had bought medications online, most often from drug chains, and three-quarters of those said the transaction went smoothly: Their order was processed quickly enough for their needs, and e-mailed questions were answered promptly. (For details on ordering via the Web, see The online option.)

GETTING BETTER SERVICE

Some stores did far better than others in service, speed, and information provided by the druggist. The most frequent complaints: Drugs were out of stock, readers had to wait a long time for service at the pharmacy counter, and prescriptions weren't ready.

Drugstore chains and supermarkets were most likely to be out of a requested drug. When a drug was out of stock, independents were able to obtain it within one day 80 percent of the time, vs. about 55 to 60 percent for the other types of stores. Only 9 percent of the time did independent customers have to wait at least three days for an out-of-stock drug or find it elsewhere, vs. at least 18 percent of the time for other types of stores.

Drugs were out of stock more often this time than when we published our last drugstore survey, in 1999. The steepest jump took place at Albertsons, Giant, and Longs Drugs, whose out-of-stocks increased by more than 15 percentage points. That's probably the case in part because the number of prescriptions being written is growing faster than the shelf space.

Overall, 27 percent of readers complained about long waits. It's no wonder. Pharmacists fill nearly 4 billion prescriptions a year, an average of almost 200 per day for each pharmacist, and spend one-fourth of their time on administrative work such as calling doctors and dealing with insurance companies. Moreover, there's a shortage of druggists—there are approximately 5,500 job openings around the U.S. At CVS, Genovese, Longs Drugs, and Sav-On, about 40 percent of readers complained of long waits for service. Lines were short at Medicine Shoppe (only 6 percent of readers complained) and at the independents (8 percent).

Twenty percent of readers overall said that their prescription wasn't ready when promised. Among the worst offenders: CVS, Genovese, and Rite Aid, where prescriptions weren't ready nearly one-third of the time. Better-prepared stores included Medicine Shoppe, Publix, ShopKo, Winn-Dixie, and the independents.

Other complaints focused on how pharmacists interact with customers. Worst offenders: the drugstore chains, where 10 percent of readers said they did not receive enough personal attention from their pharmacist. Best: You guessed it—the independents—where only 2 percent of readers found fault.

Service may improve in all stores, eventually. In many states, regulators are giving technicians more authority to assist druggists. Technology is also lending a hand in the form of robotic machines that dispense medications. They do everything but cap the bottle (which goes uncapped to the pharmacist for a final inspection).

Although only a small fraction of doctors are now writing e-prescriptions, they are the wave of the future. Doctors use a handheld device to transmit your prescription to the drugstore. The procedure avoids one of druggists' biggest problems and a contributor to the rising incidence of drug errors: deciphering doctors' handwriting.

While waiting for the future, you might improve the odds of getting good service now by patronizing an independent pharmacy. But whatever drugstore you use, you're apt to get better service by following some simple advice:

Avoid waiting. Order drugs online or by phone, then pick them up (or, if you're not in a rush, have them mailed). If you plan to pick up drugs, check from home whether the doctor and druggist have connected and the prescription is ready.

Establish a good relationship. Make sure you can step aside and talk privately with the pharmacist and that you can reach him or her by phone. The pharmacist should volunteer details about the drug and be able to answer questions about nonprescription products, too. With online pharmacies, make sure you receive prompt, thorough answers to questions submitted by e-mail.

Get good advice. Check that the pharmacy keeps and updates your medication records, which should reduce the risk of a drug conflict or adverse reaction. Don't walk away from the counter without knowing the following: what to do if you miss a dose; how many refills are permitted; how to store the drug and when it expires; what side effects to expect, along with which to ignore and which to contact your doctor about; and foods, drugs, supplements, or situations to avoid while taking the medication.

THE NEED FOR MENTAL HEALTH PARITY

Mr. FEINGOLD. Mr. President, I rise today to call attention to an issue that affects every community in this country, and that is mental illness. Next week is Mental Illness Awareness Week, and I think the best way that we in the Senate can recognize this event is to ensure parity for mental health treatment in our Nation's health care system.

Mental illness has a drastic impact not only on the country's health, but also on its economic well-being. According to the 1999 Surgeon General's report on mental illness, the unequal coverage of mental illness treatment results in direct business costs of at least $70 million per year, mostly due to lost productivity and increased use of sick leave. Earlier this year, the President's New Freedom Commission on Mental Health released a report laying forth goals and objectives to transform mental health care in the United States. According to this report, mental illness ranks first among illnesses that cause disability in this country, and the indirect costs of mental illness are estimated to be $79 billion a year. This report goes on to reaffirm the President's call for Federal legislation to provide full parity between coverage for mental health care and for non-mental health care.

Over the past two decades we have made great strides in the area of mental illness. Not only are a number of innovative, beneficial treatments available for sufferers of mental illness, but we have also worked to eradicate many of the social stigmas that have too often accompanied mental illness. However we still have much to do for those who suffer from potentially debilitating and destructive mental illnesses.

Currently, those with mental illness often struggle to obtain necessary medical treatment, even when they have sufficient health insurance. Employers who offer health benefits to their employees can impose limitations on the treatment of mental illness, while not placing similar limitations on the treatment of physical illness. This discrimination prevents many from obtaining the medical treatment they need.

I urge my colleagues in the Senate to answer the President's call, and recognize Mental Illness Awareness Week by ensuring that those suffering from mental illness have access to medical treatments that will help them to preserve the quality of their lives.

HONORING THE U.S. ARMY FORCES COMMAND

Mr. CHAMBLISS. Mr. President, I rise today to honor and recognize the U.S. Army Forces Command, headquartered at Fort McPherson, GA, as it celebrates 30 years of dedicated service to our great Nation.

On July 1, 1973, U.S. Army Forces Command was formed as part of a Department of the Army initiative to reorganize its major headquarters and establish a professional, volunteer force.

U.S. Army Forces Command is the Army's largest major command. It trains, mobilizes, and deploys ready land forces in support of operations worldwide. U.S. Army Forces Command units have been integral in fighting the global war on terrorism abroad as well as in defense of our homeland. These soldiers are deployed for our Nation in the Balkans, Kuwait, Iraq, Afghanistan, the Sinai, Central and South America, and throughout the continental United States.

Having conducted the largest mobilization of Army Reserve and National Guard forces since the Korean war in support of Operations Noble Eagle, Enduring Freedom, and Iraqi Freedom, U.S. Army Forces Command units have demonstrated the strong and seamless partnership that exists between the active and reserve components.

Wherever U.S. Army Forces Command's soldiers and units deploy, they accomplish their mission with exemplary professionalism. U.S. Army Forces Command's soldiers across the globe are advancing the proud record of success achieved by earlier generations of American fighting men and women.

I am extremely proud to have U.S. Army Forces Command headquartered in my State. I take this opportunity to commend them and ask my colleagues to join me in honoring their 30th anniversary and offer best wishes for many more years of proud service to our Nation.

ADDITIONAL STATEMENTS

TRIBUTE TO MS. SELENA FLORENCE'S CLASS AT ADAMSVILLE ELEMENTARY SCHOOL

● Mr. SESSIONS. Mr. President, I would like to take this opportunity to recognize a group of students in my home State of Alabama. In July, students from Adamsville Elementary in Adamsville, AL, traveled to San Francisco to present a portfolio at the seventh annual We the People: Project Citizen National Showcase. Middle school classes from 43 States submitted portfolios on issues ranging from drugs in schools to recycling. In each portfolio, students identified a problem, evaluated alternative solutions, proposed a class policy, and developed an action plan to implement their proposed policy. Portfolios were evaluated by State legislators, legislative staff, and educators from across the country. Scoring criteria for the portfolios included persuasiveness, practicality, coordination, and reflection. Portfolios were evaluated based on four levels of achievement: superior, exceptional, outstanding, and honorable mention.

The title of the Adamsville Elementary Project Citizen portfolio was ''Making a Difference in Blackwell Park.'' The class chose to focus on Blackwell Park, a city park a few blocks from the school. The park is in bad shape and has deteriorated over the years. While there are funds in the city budget for the park, they have often been diverted to other park complexes. The class proposed a policy that would divide all the money in the city budget equally among the city's parks. I am proud to say that the Adamsville students placed in the Exceptional Achievement Level.

I would like to pay special tribute to the teacher of the class, Selena Florence. The students of the Adamsville Elementary Project Citizen class are: J.D. Barnes, Zaiere Brigman, Zach Burford, Brittany Chandler, Dakota DeLuca, Sheldon Dumas, Demetrius Eutsey, Jessica Garrett, Tiffany Hayes, Josh Hughes, Braylen Jones, Chris Jones, Joshua Langford, Lauren Leblanc, Shelby Manning, Amanda McDuff, Justin Motley, Shalani Offord, Nicole Sanders, Austin Shadix, Brandon Shipp, Rayna Warren, and Chatney Williams.

The achievements of these students are proof that the civic education initiative we approved in this chamber is paying dividends. Project Citizen, which is part of the civic education initiative of the No Child Left Behind legislation, is giving students the lifelong skills they need to be effective, engaged, and informed citizens. I commend the Center for Civic Education and the National Conference of State Legislatures for their leadership in sponsoring this excellent service learning-type program. I also would like to commend Wade Black, the state coordinator from the Alabama Center for Law & Civic Education for his work in administering the program in my State.●

CONGRATULATIONS TO DEBORAH FLATEMAN AND VERMONT FOOD BANK

● Mr. JEFFORDS. Mr. President, I want to take a few minutes to congratulate and thank Vermont Foodbank and its Chief Executive Officer, Deborah Flateman, for their inspired tenacity and expertise in the fight against hunger in Vermont. Access to nutritional food is a fundamental right for all people and the Vermont Foodbank's philosophy seeks to eradicate the persistence of hunger by constructing a system that assures every person—not just the poor—equal access to quality food. According to the Vermont Office of Economic Opportunity, food shelf caseloads have increased 69 percent over the past 10 years. Vermont Foodbank's contribution to the cause has more than quadrupled over the past 6 years, from 1.5 million pounds of food distributed in 1997 to more than 7 million in 2003.

As its leader, Deborah Flateman has devoted her energy and expertise to placing the Vermont Foodbank on the fast track towards ending hunger. From successfully raising $2.1 million and building a state of the art facility, to hiring quality personnel, to partnering with the Vermont state government to create and implement an innovative Community Kitchen, Ms. Flateman has raised the standards of best practice. The Vermont Foodbank is a lively organization with a strong ethical base and a stellar reputation.

Deborah Flateman's personal achievements illustrate her vested commitment to ending hunger. In addition to exhibiting leadership on the local and State levels. Ms. Flateman has occupied posts on the national and international levels for America's Second Harvest, including work on an international conference planning committee and the Public Policy Task Force. In the year 2000, Ms. Flateman personally solicited $800,000 for new facilities to accommodate the Foodbank's growing operation. She has also been an integral member of the Eastern Region Affiliates Association of America's Second Harvest, and was elected chairperson in 2002. Recently, Ms. Flateman accepted the Model Program Hunger's Hope Award from America's Second Harvest on behalf of the Vermont Foodbank.

With Deborah Flateman at the helm, the Vermont Foodbank has done a first rate job in addressing hunger in the Green Mountain State. The Vermont Foodbank has made exceptional progress in a short time, and its successes mark victory after victory in the fight against hunger.●

TRIBUTE TO LIEUTENANT GENERAL JOHN M. LEMOYNE, U.S. ARMY, ON HIS RETIREMENT

● Mr. NELSON of Florida. Mr. President, I rise today to recognize a great patriot, soldier and fellow Floridian, LTG John M. LeMoyne. General LeMoyne is retiring after a distinguished 35-year career in the United States Army.

John LeMoyne entered military service in 1968 after graduating from the University of Florida, in Gainsville, FL. He was commissioned through ROTC as a second lieutenant in the Infantry and has served with distinction for over three decades in peace and during two wars. Most notable was his final assignment as the Army's Deputy Chief of Staff for Personnel, G–1. He was personally selected by the Army's senior leadership to serve as its head personnel officer and to take control of an organization which had sustained substantial casualties during the September 11 terrorist attack on the Pentagon. His calm hand, steady leadership and personal touch were instrumental in guiding the organization through a period of mourning and reconstitution, while continuing to support the Army's many personnel needs. Over the past 2 years, during a period of unprecedented global action, with Operations Enduring Freedom and

Iraqi Freedom, General LeMoyne ensured that the Army's personnel challenges were met.

Throughout his career, General LeMoyne has distinguished himself in numerous command and staff positions both overseas and in the United States. In Vietnam, he commanded an infantry company, where he was recognized for his heroism and received a Purple Heart. In Europe, his assignments included command of the 3rd Battalion, 30th Infantry, 3rd Infantry Division; Operations Officer and later Chief of Staff for the U.S. Army Europe and Seventh Army. General LeMoyne's stateside assignments included serving as the Commander, 1st Brigade, 24th Infantry Division and Commanding General, U.S. Army Infantry Center, Fort Benning, GA. While in command of the 1st Brigade during Operation Desert Storm, General LeMoyne's unit led the famous ''Hail Mary'' into the Iraqi Army's rear which contributed to the quick end of hostilities and the defeat of the Iraqi Army in Kuwait.

Mr. President, I ask my colleagues to join me in thanking General LeMoyne for the leadership he has provided, for the care and concern he has demonstrated for our soldiers and their families and for his dedicated and honorable service to our Nation and its Army. As he returns to Gainsville, we wish him, his wife Marion and family Godspeed and all the best in the future.●

RAJESH (RAJ) SOIN 2003 ELLIS ISLAND MEDAL OF HONOR RECIPIENT

● Mr. VOINOVICH. Mr. President, I rise today to congratulate and pay tribute to Mr. Raj Soin of Beavercreek, OH as a 2003 Ellis Island Medal of Honor recipient.

The prestigious Ellis Island Medal of Honor award is presented annually to ''remarkable American who exemplify outstanding qualities in both their personal and professional lives,'' and ''who have distinguished themselves as citizens of the United States, while continuing to preserve the richness of their particular heritage.''

Mr. Soin was born in New Delhi, India in 1947 and graduated from Delhi University in 1969 with a Bachelor's degree in Mechanical Engineering. After graduation, he came to the United States with barely enough money to make his way to Bradley University, where he earned a Master of Science degree in Industrial Engineering in 1971, while working as a research assistant. Mr. Soin continued his postgraduate studies in business and finance, at Bradley University, Illinois State University, and the advanced management programs at Harvard University and The Wharton School of the University of Pennsylvania.

Raj Soin and his wife, Indu, became proud citizens of the United States in 1978.

In 1984, Raj Soin created his company, Modern Technologies Corporation, MTC, on a dream. MTC was founded with the idea of proving engineering and technical services to the Department of Defense, but quickly became an incubator that has spawned numerous businesses in a variety of industries. From its inception, MTC has grown at an exceptional rate and was hailed as one of the fastest growing companies in the United States by Inc. magazine for 4 consecutive years. In June 2002, MTC Technologies was listed on NASDAQ. Today the company has sales in excess of $140 million and employs over 1100 people in 25 cities and 18 States.

With the success of his company, Modern Technologies Corporation, he could have chosen to channel his energies solely toward his business. Instead, he believes in contributing to the community that has given him so much. And the one area in which Mr. Raj Soin has made a particular difference has been in the area which has had such an enormous impact on his own life—education.

When I was Governor of Ohio, one of the goals that I set for my administration was to celebrate the cultural diversity of our State by seeking out individuals from non-traditional ethnic groups and giving them an opportunity to serve.

I was so impressed by Raj's devotion to education, that as Governor, I appointed him to Wright State University's Board of Trustees in 1993. One of the main reasons that I asked Raj to serve on the Board of Trustees was that he constantly mentioned the fact that we needed to do a better job in higher education, that we needed to do a better job in secondary and primary education.

He has served with great distinction and is held in the highest regard by his colleagues. More important is the fact that through his work on behalf of Wright State University, Raj has directly touched the lives of so many. Raj Soin has truly made a difference on behalf of the citizens of Dayton, the State of Ohio and thousands of Wright State University graduates.

Because of his commitment to higher education and in honor of his accomplishments and support of the University, in 2000, the business college at Wright State was renamed the Raj Soin College of Business and I was delighted to be on campus in Dayton, OH, for the dedication ceremony.

Raj's determination, his hard work and his selflessness are traits that all of us should strive to emulate, not only in business, but in life, because there are rewards that are greater than money—particularly, the ability to make a difference in the lives of one's fellow man.

For example, Raj is the founding trustee and first president of the Ohio-India project. Two of the local projects of the Ohio-India Project are the Ghandi House, a transitional house for women in need and the Annual Day of Caring, which started as a local event and is now conducted in several states with expectations of becoming a national program.

Additionally, as Governor, we led a trade mission to India in April of 1996, and I had the chance to see Raj Soin in action when his company, Modern Technologies Corporation and CMC Limited announced their joint agreement to, among other things, greatly expand India's access to the Internet.

Mr. Soin's company, MTC Technologies also supports many community projects through the MTC Foundation. MTC not only provides part of the funding for the Foundation, but permits and encourages employers to spend company time to help with the Foundation's work.

Raj Soin serves as a member of the Board of Directors of Victoria Theatre Association, and on the Board of Directors of the Kettering Medical Center Network. He is a past member of the Board of Trustees of Wright State University, the Advisory Board of KeyBank, and Dayton District. He is a founding trustee and past president of Asian Indian American Business Group. He has also served as a member of the Dayton Area Chamber of Commerce Board of Trustees; member of the Ohio Business Roundtable; Co-Chair of the Center for Information Technology in Dayton; member of the Board of Dayton Council on World Affairs; and member of the Board of the Dayton Air and Trade Show.

Mr. Soin has received many awards, including: The National Conference of Christians and Jews Humanitarians Award, Ernst & Young's Master Entrepreneur, and Beavercreek Chamber of Commerce Business Person of the Year.

Even with all the business success he has enjoyed and all the charitable and philanthropic acts that he has undertaken, perhaps what best exemplifies Raj Soin is the fact that he is a loving husband, devoted father and caring son. I have been to Raj and Indu's home and I have been with them at other occasions and observed the genuine love and admiration they have for each other and their pride in their two sons.

Raj understands, as so many Asian Indians do, that the family is the backbone of our society.

I remember also on our business mission having the pleasure of meeting Raj Soin's father. You could not help but see how proud he was of Raj. And that love and respect was mutual; for Raj is the main benefactor for the Sukh Dev Raj Soin Hospital which is being built in memory of his father in India.

Raj has been a role model in every sense: in terms of his family, in terms of his contributions to his ''extended family'' in the community, and in terms of his success in business.

Raj Soin is indeed a remarkable American of the highest integrity in both his personal and professional life.

He has made many outstanding contributions to the Asian Indian community, to his local community in Dayton, OH and to American society.

Raj Soin is a man who came to our shores in search of a dream, who started from scratch and became a success in his adopted country, and then he went back to his homeland to help millions of people join the information age. There is just one way to describe it—only in America could such an opportunity arise to be successful and to serve.

I am proud to recognize my friend, Raj Soin, and congratulate him on this wonderful honor.●

THE 70TH BIRTHDAY OF VERONICA MARRON AND ELIZABETH MARRON

● Mr. NELSON of Nebraska. Mr. President, today I would like to recognize the upcoming birthday of two native Nebraskans—both fine educators, loving mothers, and devoted wives.

Veronica and Elizabeth Marron were born Oct. 14, 1933, to parents Harry and Pearl Marron, in Waterbury, NE. They were the last children of five, including Joe, Leonard and Gene. Fraternal twins, the girls were called Bonnie and Betty from childhood.

The twins graduated from Newcastle High in 1951, with Betty earning valedictorian and Bonnie salutatorian and Girls' State honors. Although just 17-years-old, both quickly earned teaching certificates and started work in Dixon County's country schools.

That was just the beginning of two lifetimes dedicated to education and twin, true passions for teaching. Both women taught for more than 30 years, with Bonnie ending her career at the O'Neill Public Schools and Betty at Falls City Elementary School.

Bonnie married Jim Lowe of Ponca and had four children, Peggy, Paula, Ann and Patrick. Betty married Phil Slagle of Falls City and also had four children, Scott, Todd, Jeff and Jay.

On October 14, 2003, Bonnie and Betty will celebrate 70 years of living ''the good life'' in Nebraska. I join their family and friends in wishing them a very happy birthday, and many more.●

TRIBUTE TO WILLIAM HOWARD TAFT ELEMENTARY

● Mr. CRAPO. Mr. President, I would like to honor William Howard Taft Elementary School in Boise, ID, on receiving the prestigious No Child Left Behind Blue Ribbon Schools Award. The Blue Ribbon Schools Award is highly sought after and is awarded to schools that demonstrate dramatic gains in student achievement. Taft reflects our Nation's commitment to high academic standards and accountability. Taft teachers, parents, and students have demonstrated they are ''deeply committed to establishing and upholding high standards of learning.'' This is reflected in the success of their students.

Of course, improvement and achievement do not happen in a vacuum. Behind this award lie days, weeks, and months of hard work by dedicated individuals who have been actively involved in the teaching and learning process. Dr. Susan Williamson, Taft's Principal, and her staff have reaffirmed our commitment to high-quality education in Idaho. I am pleased to commend Dr. Williamson, as well as the teachers, parents, administrators, community members and all 353 students who have helped make Taft Elementary such a great place to learn. As a recipient of The Blue Ribbon Schools Award, William Howard Taft Elementary, you do Idaho proud.●

TRIBUTE TO THE SENTINEL

● Mr. CRAPO. Mr. President, today I honor North Idaho College's student newspaper The Sentinel for over 70 years of exceptional journalism. Since the 1930s, North Idaho College has published a student newspaper in Coeur d'Alene. The Sentinel has a remarkable record of honors, including the Robert F. Kennedy Journalism Award, in addition to several regional and national first place awards in various competitions. It is perhaps the newspaper's most recent awards that demonstrate most clearly the tremendous passion and dedication to excellence that exists at the Sentinel.

At this year's Society of Professional Journalists' national convention, The Sentinel received first place in general excellence for nondaily newspapers, and first place in the online newspaper category. In both competitions, North Idaho College, a 2-year school, was chosen over 4-year schools with much larger enrollments.

North Idaho College, former Sentinel Managing Editors Betsy Dalessio and Jerry Manter, advisor Nils Rosdahl, and all members of The Sentinel staff past and present are to be commended for their hard work in creating a newspaper of distinction. They, along with all of the citizens of the State of Idaho, can be proud of North Idaho College's award-winning student newspaper, The Sentinel.●

TRIBUTE TO DAVID BROWN

● Mr. GRAHAM of South Carolina. Mr. President, I would like to take this opportunity to recognize the accomplishments of one of my constituents, David Brown. I rise to commend him for his tenure as president and CEO of the South Carolina Greater Greenville Chamber of Commerce as he leaves after 9 years of service.

Under David's leadership the chamber has received capital investment commitments exceeding $3 billion, resulting in 15,000 new job opportunities in the Greenville area.

During his tenure, the chamber has become instrumental in infrastructure development, education reform, and workforce development, creating the Corporate Partnership for Operational Excellence and the Carolina First Center for Excellence. Other major projects under David's leadership include the Southern Connector, Bi-Lo Center Arena, and several industrial parks.

A graduate of Dartmouth College, David has served as the president of the Monroe County, Michigan Industrial Development Corporation and the president of the Fort Wayne, IN Chamber of Commerce. David and his wife, Maggie, have two sons: Gregory and Elijah.

I invite you to join me in thanking David Brown for his service in the Greater Greenville Chamber of Commerce and his dedication to the State of South Carolina.●

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Williams, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

MESSAGES FROM THE HOUSE

At 12:01 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House has disagreed to the amendment of the Senate to the bill (H.R. 2691) making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 2004, and for other purposes, and agreed to the conference asked by the Senate on the disagreeing votes of the two Houses thereon; and appoints the following members as the managers of the conference: Mr. TAYLOR of North Carolina, Mr. REGULA, Mr. KOLBE, Mr. NETHERCUTT, Mr. WAMP, Mr. PETERSON of Pennsylvania, Mr. SHERWOOD, Mr. CRENSHAW, Mr. YOUNG of Florida, Mr. DICKS, Mr. MURTHA, Mr. MORAN of Virginia, Mr. HINCHEY, Mr. OLVER, and Mr. OBEY.

The message also announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 1260. An act amend the Federal Food, Drug, and Cosmetic Act to establish a program of fees relating to animal drugs.

H.R. 1276. An act to provide downpayment assistance under the HOME Investment Partnerships Act, and for other purposes.

H.R. 2608. An act to reauthorize the National Earthquake Hazards Reduction Program, and for other purposes.

H.R. 3034. An act to amend the Public Health Service Act to reauthorize the National Bone Marrow Donor Registry, and for other purposes.

H.R. 3038. An act to make certain technical and conforming amendments to correct the Health Care Safety Net Amendments of 2002.

The message further announced that the House has agreed to the following concurrent resolution, in which it requests the concurrence of the Senate:

H. Con. Res. 271. Concurrent Resolution congratulating Fort Detrick on 60 years of service to the Nation.

ENROLLED BILLS SIGNED

At 12:11 p.m., a message from the House of Representatives, delivered by Ms. Niland, one of its reading clerks, announced that the Speaker of the House has signed the following enrolled bills:

S. 570. An act to amend the Higher Education Act of 1965 with respect to the qualifications of foreign schools.

H.R. 1925. An act to reauthorize programs under the Runaway and Homeless Youth Act and the Missing Children's Assistance Act, and for other purposes.

The enrolled bills were subsequently signed by the President pro tempore (Mr. STEVENS).

At 1:33 p.m., a message from the House of Representatives, delivered by Ms. Niland, one of its reading clerks, announced that the House has agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the House of Representatives to the bill (S. 3) to prohibit the procedure commonly known as partial-birth abortion.

At 3:11 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House has disagreed to the amendment of the Senate to the bill (H.R. 2660) making appropriations for the Departments of Labor, Health and Human Services, and 'Education, and related agencies for the fiscal year ending September 30, 2004, and for other purposes, and agreed to the conference asked by the Senate on the disagreeing votes of the two Houses thereon; and appoints the following members as the managers of the conference: Mr. REGULA, Mr. ISTOOK, Mr. WICKER, Mrs. NORTHUP, Mr. CUNNINGHAM, Ms. GRANGER, Mr. PETERSON of Pennsylvania, Mr. SHERWOOD, Mr. WELDON of Florida, Mr. SIMPSON, Mr. YOUNG of Florida, Mr. OBEY, Mr. HOYER, Mrs. LOWEY, Ms. DELAURO, Mr. JACKSON of Illinois, Mr. KENNEDY of Rhode Island, and Ms. ROYBAL-ALLARD.

At 6:10 p.m., a message from the House of Representatives, delivered by Ms. Niland, one of its reading clerks, announced that the Speaker House has signed the following enrolled bill:

H.R. 2826. An act to designate the facility of the United States Postal Service located at 1000 Avenida Sanchez Osorio in Carolina, Puerto Rico, as the ''Roberto Clemente Walker Post Office Building.''

MEASURES REFERRED

The following bills were read the first and the second times by unanimous consent, and referred as indicated:

H.R. 1260. An act to amend the Federal Food, Drug, and Cosmetic Act to establish a program of fees relating to animal drugs; to the Committee on Health, Education, Labor, and Pensions.

H.R. 1276. An act to provide down payment assistance under the HOME Investment Partnerships Act, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

H.R. 2608. An act to reauthorize the National Earthquake Hazards Reduction Program, and for other purposes; to the Committee on Commerce, Science, and Transportation.

H.R. 3034. An act to amend the Public Health Service Act to reauthorize the National Bone Marrow Donor Registry, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

H.R. 3038. An act to make certain technical and conforming amendments to correct the Health Care Safety Net Amendments of 2002; to the Committee on Health, Education, Labor, and Pensions.

The following concurrent resolution was read, and referred as indicated:

H. Con. Res. 271. Concurrent Resolution congratulating Fort Detrick on 60 years of service to the Nation; to the Committee on the Judiciary.

ENROLLED BILL PRESENTED

The Secretary of the Senate reported that on today, October 2, 2003, she had presented to the President of the United States the following enrolled bill:

S. 570. An act to amend the Higher Education Act of 1965 will respect to the qualifications of foreign schools.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, and were referred as indicated:

EC–4473. A communication from the Acting Division Chief, Office of Protected Resources, National Marine Fisheries Service, transmitting, pursuant to law, the report of a rule entitled ''Taking of Marine Mammals Incidental to Commercial Fishing Operations; Atlantic Large Whale Take Reduction Plan Regulations'' (RIN0648-AP93) received on September 25, 2003; to the Committee on Commerce, Science, and Transportation.

EC–4556. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Modification of Class E Airspace; Aurora, MO Doc. No. 03-ACE-58'' (RIN2120-AA66) received on September 30, 2003; to the Committee on Commerce, Science, and Transportation.

EC–4557. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Modification of Class D Airspace; and Modification of Class E Airspace; St. Joseph, MO Doc. No. 03-ACE-70'' (RIN2120-AA66) received on September 30, 2003; to the Committee on Commerce, Science, and Transportation.

EC–4558. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Modification of Class E Airspace; Sullivan, MO Correction Doc. No. 03-ACE-63'' (RIN2120-AA66) received on September 30, 2003; to the Committee on Commerce, Science, and Transportation.

EC–4559. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Revision of V-13 and V-407; Harlingen, TX Doc. No. 03-ASW-1'' (RIN2120-AA66) received on September 30, 2003; to the Committee on Commerce, Science, and Transportation.

EC–4560. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: Learjet Model 60 Airplanes Doc. No. 2000-NM-408'' (RIN2120-AA64) received on September 30, 2003; to the Committee on Commerce, Science, and Transportation.

EC–4561. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: Bombardier Model CL-600-2B19 (Regional Jet Series 100 and 440) Doc. No. 2003-NM-179'' (RIN2120-AA64) received on September 30, 2003; to the Committee on Commerce, Science, and Transportation.

EC–4562. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: Dornier Model 328-100 and 300 Series Airplanes'' (RIN2120-AA64) received on September 30, 2003; to the Committee on Commerce, Science, and Transportation.

EC–4563. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: McDonnell Douglas Model DC-10-10, 10F- , 30, 30F (KC-10A and KDC-10), 40, and 40F Airplanes and Model MD-10-10F and 30F Airplanes Doc. No. 2002-NM-164'' (RIN2120-AA64) received on September 30, 2003; to the Committee on Commerce, Science, and Transportation.

EC–4564. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: Boeing Model 777 Series Airplanes Doc. No. 2003-NM-137'' (RIN2120-AA64) received on September 30, 2003; to the Committee on Commerce, Science, and Transportation.

EC–4565. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: Eagle Aircraft (Malaysia) Sdn. Bhd. Model 150B Airplanes Doc. No. 2000-CE-23'' (RIN2120-AA64) received on September 30, 2003; to the Committee on Commerce, Science, and Transportation.

EC–4566. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: Aerospatiale Model ATR42-500 and ATR72 Series Airplane Doc. No. 2002-NM-169'' (RIN2120-AA64) received on September 30, 2003; to the Committee on Commerce, Science, and Transportation.

EC–4567. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives:

Airbus Model A330 and A340 Series Airplanes Doc. No. 2001-NM-187'' (RIN2120-AA64) received on September 30, 2003; to the Committee on Commerce, Science, and Transportation.

EC–4568. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''IFR Altitudes; Miscellaneous Amendments (5) Amdt. No. 444'' (RIN2120-AA63) received on September 30, 2003; to the Committee on Commerce, Science, and Transportation.

EC–4569. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: Eurocopter France Model EC 155B Helicopters Doc. No. 2003-SW-22'' (RIN2120-AA64) received on September 30, 2003; to the Committee on Commerce, Science, and Transportation.

EC–4570. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Modification of Class E Airspace; Beatrice, NE Correction Doc. No. 03-ACE-59'' (RIN2120-AA66) received on September 30, 2003; to the Committee on Commerce, Science, and Transportation.

EC–4571. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: Boeing Model 767-200, 300, 300F, and 400ER Series Airplanes Doc. No. 2001-NM-240'' (RIN2120-AA64) received on September 30, 2003; to the Committee on Commerce, Science, and Transportation.

EC–4572. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: Gulfstream Model G-V Series Doc. No. 2003-NM-190'' (RIN2120-AA64) received on September 30, 2003; to the Committee on Commerce, Science, and Transportation.

EC–4573. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: Correction Bombardier Model CL-600-2B19 (Regional Jet Series 100 and 400) Doc. No. 2001-NM-322'' (RIN2120-AA64) received on September 30, 2003; to the Committee on Commerce, Science, and Transportation.

EC–4574. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: Turbomeca Arrius 2 B1, 2 B1A, 2B1A1, and 2K1 Turboshaft Engines Doc. No. 2003-NE-05'' (RIN2120-AA64) received on September 30, 2003; to the Committee on Commerce, Science, and Transportation.

EC–4575. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: Turbomeca Arriel 1 Series Turboshaft Engines Doc. No. 94-NE-08'' (RIN2120-AA64) received on September 30, 2003; to the Committee on Commerce, Science, and Transportation.

EC–4576. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: Boeing Model 767 Series Airplanes Doc. No. 2001-NM-342'' (RIN2120-AA64) received on September 30, 2003; to the Committee on Commerce, Science, and Transportation.

EC–4577. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: Boeing Model 747 Series Airplanes Doc. No. 2001-NM-324'' (RIN2120-AA64) received on September 30, 2003; to the Committee on Commerce, Science, and Transportation.

EC–4578. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: Bombardier Model CL-600-2B19 (Regional Jet Series 100 and 400) Airplanes Doc. No. 2001-NM-176'' (RIN2120-AA64) received on September 30, 2003; to the Committee on Commerce, Science, and Transportation.

EC–4579. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: Boeing Model 757 Series Airplanes Powered by Pratt and Whitney Engines Doc. No. 2001-NM-370'' (RIN2120-AA64) received on September 30, 2003; to the Committee on Commerce, Science, and Transportation.

EC–4580. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Modification of Class E Airspace; Sioux Center, IA Doc. No. 03-ACE-53'' (RIN2120-AA66) received on September 30, 2003; to the Committee on Commerce, Science, and Transportation.

EC–4581. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Establishment of Class E Airspace at Richfield Municipal Airport , Richfield, UT Doc. No. 01-ANM-16'' (RIN2120-AA66) received on September 30, 2003; to the Committee on Commerce, Science, and Transportation.

EC–4582. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Modification of Class E Airspace; Waimea-Kohala Airport, HI Doc. No. 03-AWP-10'' (RIN2120-AA66) received on September 30, 2003; to the Committee on Commerce, Science, and Transportation.

EC–4583. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Modification of Class E Airspace; Vinton, IA Doc. No. 03-ACE0-54'' (RIN2120-AA66) received on September 30, 2003; to the Committee on Commerce, Science, and Transportation.

EC–4584. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Modification of Class E Airspace; Elkhart, KS Doc. No. 03-ACE-51'' (RIN2120-AA66) received on September 30, 2003; to the Committee on Commerce, Science, and Transportation.

EC–4585. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Modification of Class E Airspace; Waterloo, IA Doc. No. 03-ACE-55'' (RIN2120-AA66) received on September 30, 2003; to the Committee on Commerce, Science, and Transportation.

EC–4586. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Modification of Class E Airspace; Webster, IA Doc. No. 03–ACE–56'' (RIN2120–AA66) received on September 30, 2003; to the Committee on Commerce, Science, and Transportation.

EC–4587. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Modification of Class E Airspace; West Union, Ia Doc. No. 03–ACE–57'' (RIN2120–AA66) received on September 30, 2003; to the Committee on Commerce, Science, and Transportation.

EC–4588. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Establishment of Jet Routes 618 and 623, Revocation of Jet Routes 600 and 601; AK Doc. No. 03–AAL–14'' (RIN2120–AA66) received on September 30, 2003; to the Committee on Commerce, Science, and Transportation.

EC–4589. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Modification of the Houston Class B Airspace Area; TX Doc. No. 01–AWA–4'' (RIN2120–AA66) received on September 30, 2003; to the Committee on Commerce, Science, and Transportation.

EC–4590. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Standard Instrument Approach Procedures; Miscellaneous Amendments (86) Amdt. No. 3075'' (RIN2120–AA65) received on September 30, 2003; to the Committee on Commerce, Science, and Transportation.

EC–4591. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Modification of Class E Airspace; Wichita MidContinent Airport, KS Doc. No. 03–ACE–52'' (RIN2120–AA66) received on September 30, 2003; to the Committee on Commerce, Science, and Transportation.

EC–4592. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: Fairchild Aircraft, Inc., Series SA226 and SA227 Series Airplanes Doc. No. 2000–CE–45'' (RIN2120–AA64) received on September 30, 2003; to the Committee on Commerce, Science, and Transportation.

EC–4593. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: Airbus Model A310 Series Airplanes Doc . No. 2002–NM–179'' (RIN2120–AA64) received on September 30, 2003; to the Committee on Commerce, Science, and Transportation.

EC–4594. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: Eurocopter France Model AS 365 N3 and EC 155B Helicopters Doc. No. 2001–SW–61'' (RIN2120–AA64) received on September 30, 2003; to the Committee on Commerce, Science, and Transportation.

EC–4595. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives:

Airbus Model A319–131 and 132, A320–231, 232, and 233; and A321–131 and –231 Series Airplanes Doc. No. 2000–NM–411'' (RIN2120–AA64) received on September 30, 2003; to the Committee on Commerce, Science, and Transportation.

EC–4596. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: Rolls-Royce plc RB211–524G2, –524G2–T, –524G3T, –524H, –524H–T, –524H2, and –524H2T Series and Models RB211 Trent 768–60, 772–60, and 772B–60 Turbofan Engines; Corr. Doc. No. 2003–NE–20'' (RIN2120–AA64) received on September 30, 2003; to the Committee on Commerce, Science, and Transportation.

EC–4597. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Removal of Class E Airspace; Clifton, TN Doc. No. 03–ASO–17'' (RIN2120–AA66) received on September 30, 2003; to the Committee on Commerce, Science, and Transportation.

EC–4598. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Modification of Class E Airspace; Wiamea-Kohala, HI Airspace Doc . No. 03–AWP–10'' (RIN2120–AA66) received on September 30, 2003; to the Committee on Commerce, Science, and Transportation.

EC–4599. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Modification of Class E Airspace; Cheboygan, MI Doc. No. 03–AGL–04'' (RIN2120–AA66) received on September 30, 2003; to the Committee on Commerce, Science, and Transportation.

EC–4600. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Modification of Class E Airspace; West Union, OH Doc. No. 03–AGL–05'' (RIN2120–AA66) received on September 30, 2003; to the Committee on Commerce, Science, and Transportation.

EC–4601. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Modification of Class E Airspace; South Bend, IN Doc. No. 03–AGL–03'' (RIN2120–AA66) received on September 30, 2003; to the Committee on Commerce, Science, and Transportation.

EC–4602. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Establishment of Class E Airspace; Richfield Municipal Airport Corr. Doc. 01–ANM–16'' (RIN2120–AA66) received on September 30, 2003; to the Committee on Commerce, Science, and Transportation.

EC–4603. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: Airbus Model A300 B4–600, B4–600R, and F4–600R (Collectively Called A300–600) Series Airplanes, and Airbus Model A310 Series Airplanes Doc. No. 2003–NM–206'' (RIN2120–AA64) received on September 30, 2003; to the Committee on Commerce, Science, and Transportation.

EC–4604. A communication from the FMCSA Regulatory Officer, Federal Motor Carrier Safety Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Transportation of Household Goods; Interim Final Rule; Delay of (March 1, 2004) Compliance Date'' (RIN2126–AA32) received on September 30, 2003; to the Committee on Commerce, Science, and Transportation.

EC–4605. A communication from the Attorney, Research and Special Programs Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Hazardous Materials Regulations: Minor Editorial Corrections and Clarifications'' (RIN2137–AD85) received on September 30, 2003; to the Committee on Commerce, Science, and Transportation.

EC–4606. A communication from the FMCSA Regulatory Officer, Federal Motor Carrier Safety Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Hours of Service of Drivers; Final Rule; Technical Amendments'' (RIN2126–AA23) received on September 30, 2003; to the Committee on Commerce, Science, and Transportation.

EC–4607. A communication from the Secretary of Transportation, transmitting, the Department of Transportation's Strategic Plan for fiscal years 2003–2008; to the Committee on Commerce, Science, and Transportation.

EC–4608. A communication from the Assistant Administrator for Procurement, National Aeronautics and Space Administration, transmitting, pursuant to law, the report of a rule entitled ''Format and Numbering of Award Documents'' (RIN2700–AC61) received on September 25, 2003; to the Committee on Commerce, Science, and Transportation.

EC–4609. A communication from the Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service, transmitting, pursuant to law, the report of a rule entitled ''Closure of Pacific Ocean Perch Fishery in the Eastern Aleutian District of the Bering Sea and Aleutian Islands'' received on September 25, 2003; to the Committee on Commerce, Science, and Transportation.

EC–4610. A communication from the Chairman, Surface Transportation Board, Office of Economics, Environmental Analysis, and Administration, transmitting, pursuant to law, the report of a rule entitled ''Regulations Governing Fees for Services Performed in Connection with Licensing and Related Services — 2003 Update'' (STB Ex Parte No. 542 sub no. 10—Board Decision #33636) received on September 29, 2003; to the Committee on Commerce, Science, and Transportation.

EC–4611. A communication from the Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Zinc Phosphide; Pesticide Tolerance'' (FRL#7329–9) received on September 30, 2003; to the Committee on Agriculture, Nutrition, and Forestry.

EC–4612. A communication from the Administrator, Agricultural Marketing Service, Fruit and Vegetable Programs, transmitting, pursuant to law, the report of a rule entitled ''Increased Assessment Rates for Specified Marketing Orders'' (Doc. No. FV03–922–1 FR) received on September 30, 2003; to the Committee on Agriculture, Nutrition, and Forestry.

EC–4613. A communication from the Administrator, Agricultural Marketing Service, Fruit and Vegetable Programs, transmitting, pursuant to law, the report of a rule entitled ''Oranges, Grapefruit, Tangerines, and Tangelos Grown in Florida; Extension and Modification of the Exemption for Shipments of Tree Run Citrus'' (Doc. No. FV03–905–1 FR) received on September 30, 2003; to the Committee on Agriculture, Nutrition, and Forestry.

EC–4614. A communication from the Administrator, Agricultural Marketing Service, Fruit and Vegetable Programs, transmitting, pursuant to law, the report of a rule entitled ''Oranges, Grapefruit, Tangerines, and Tangelos Grown in Florida; Limiting the Volume of Small Red Seedless Grapefruit'' (Doc. No. FV03–905–3 FR) received on September 30, 2003; to the Committee on Agriculture, Nutrition, and Forestry.

EC–4615. A communication from the Administrator, Agricultural Marketing Service, Fruit and Vegetable Programs, transmitting, pursuant to law, the report of a rule entitled ''Irish Potatoes Grown in Colorado; Reinstatement of the Continuing Assessment Rate'' (Doc. No. FV03–948–1 FR) received on September 30, 2003; to the Committee on Agriculture, Nutrition, and Forestry.

EC–4616. A communication from the Administrator, Agricultural Marketing Service, Dairy Programs, transmitting, pursuant to law, the report of a rule entitled ''National Dairy Promotion and Research Program—Amendment to the Order'' (Doc. No. DA–03–06 FR) received on September 30, 2003; to the Committee on Agriculture, Nutrition, and Forestry.

EC–4617. A communication from the Administrator, Agricultural Marketing Service, Fruit and Vegetable Programs, transmitting, pursuant to law, the report of a rule entitled ''Dried Prunes Produced in California; Changes in Reporting Requirements'' (Doc. No. FV03–993–1 FIR) received on September 30, 2003; to the Committee on Agriculture, Nutrition, and Forestry.

EC–4618. A communication from the Administrator, Agricultural Marketing Service, Fruit and Vegetable Programs, transmitting, pursuant to law, the report of a rule entitled ''Domestic Dates Produced or Packed in Riverside County, California; Decreased Assessment Rate'' (Doc. No. FV03–987–1 FR) received on September 30, 2003; to the Committee on Agriculture, Nutrition, and Forestry.

EC–4619. A communication from the Administrator, Agricultural Marketing Service, Fruit and Vegetable Programs, transmitting, pursuant to law, the report of a rule entitled ''Oranges, Grapefruit, Tangerines, and Tangelos Grown in Florida; Increased Assessment Rate'' (Doc. No. FV03–905–1 FR) received on September 30, 2003; to the Committee on Agriculture, Nutrition, and Forestry.

EC–4620. A communication from the Administrator, Agricultural Marketing Service, Fruit and Vegetable Programs, transmitting, pursuant to law, the report of a rule entitled ''Irish Potatoes Grown in Colorado; Increased Assessment Rate'' (Doc. No. FV03–948–1 FR) received on September 30, 2003; to the Committee on Agriculture, Nutrition, and Forestry.

EC–4621. A communication from the Administrator, Agricultural Marketing Service, Fruit and Vegetable Programs, transmitting, pursuant to law, the report of a rule entitled ''Oranges, Grapefruit, Tangerines, and Tangelos Grown in Florida and Imported Grapefruit; Removing All Seeded Grapefruit Regulations, Relaxation of Grade Requirements for Valencia and Other Late Type Oranges, and Removing Quality and Size Regulations on Imported Seeded Grapefruit'' (Doc. No. FV03–922–1 FR) received on September 30, 2003; to the Committee on Agriculture, Nutrition, and Forestry.

EC–4622. A communication from the Director, Office of Energy Policy and New Uses, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled ''Office of Energy Policy and New Uses; Biodiesel Fuel Education Program—Administrative Provisions'' (7 CFR Part 2903) received on September 29, 2003; to the Committee on Agriculture, Nutrition, and Forestry.

EC–4623. A communication from the Assistant Director, Executive and Political Personnel, Department of the Army, transmitting, pursuant to law, a change in previously submitted reported information for the position of Assistant Secretary of the Army (Civil Works) received on October 1, 2003; to the Committee on Armed Services.

EC–4624. A communication from the Secretary of Defense, transmitting, the report of a retirement; to the Committee on Armed Services.

EC–4625. A communication from the General Counsel of the Department of Defense, transmitting, a legislative proposal pertaining to commissioned military officers serving in the position of Associate Director of Central Intelligence for Military Support; to the Committee on Armed Services.

EC–4626. A communication from the General Counsel, Office of the General Counsel, National Credit Administration, transmitting, pursuant to law, the report of a rule entitled ''12 CFR Parts 703 and 742 Investment and Deposit Activities and Regulatory Flexibility'' received on October 2, 2003; to the Committee on Banking, Housing, and Urban Affairs.

EC–4627. A communication from the Deputy Secretary, Division of Investment Management, Securities and Exchange Commission, transmitting, pursuant to law, the report of a rule entitled ''Amendments to Investment Company Advertising Rules'' (RIN3235–AH19) received on September 30, 2003; to the Committee on Banking, Housing, and Urban Affairs.

EC–4628. A communication from the Legislative and Regulatory Activities Division, Comptroller of the Currency, Administrator of National Banks, transmitting, pursuant to law, the report of a rule entitled ''Electronic Filing and Disclosure of Beneficial Ownership Reports'' (RIN1557–AC75) received on October 1, 2003; to the Committee on Banking, Housing, and Urban Affairs.

EC–4629. A communication from the Director, Office of Legislative Affairs, Federal Deposit Insurance Corporation, transmitting, pursuant to law, the report of a rule entitled ''Office of the Comptroller of the Currency'' (RIN1557–AC10) received on October 1, 2003; to the Committee on Banking, Housing, and Urban Affairs.

EC–4630. A communication from the Assistant to the Board, Board of Governors of the Federal Reserve System, transmitting, pursuant to law, the report of a rule entitled ''Risk-Based Capital Guidelines; Capital Adequacy Guidelines; Capital Maintenance: Interim Capital Treatment of Consolidated Asset-Backed Commercial Paper Program Assets (Regulation H and Y)'' (Doc. No. R–1156) received on October 2, 2003; to the Committee on Banking, Housing, and Urban Affairs.

EC–4631. A communication from the Director, Office of Surface Mining, Department of the Interior, transmitting, pursuant to law, the report of a rule entitled ''Ohio Regulatory Program'' (OH–249–FOR) received on September 29, 2003; to the Committee on Energy and Natural Resources.

EC–4632. A communication from the Secretary of the Interior, transmitting, the Department of the Interior's revised Strategic Plan for fiscal years 2003–2008; to the Committee on Environment and Public Works.

EC–4633. A communication from the Director, Office of Congressional Affairs, Office of Nuclear Material Safety and Safeguards, transmitting, pursuant to law, the report of a rule entitled ''10 CFR Parts 30, 40, and 70L: Financial Assurance Amendments for Materials Licensees'' (RIN3150–AG85) received on October 2, 2003; to the Committee on Environment and Public Works .

EC–4634. A communication from the Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Clean Air Act Area Designations; California'' (FRL#7568–3) received on September 30, 2003; to the Committee on Environment and Public Works.

EC–4635. A communication from the Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Interim Final Determination that State has Corrected a Deficiency in the California State Implementation Plan, San Joaquin Valley Unified Air Pollution District'' (FRL#7565–4) received on September 30, 2003; to the Committee on Environment and Public Works.

EC–4636. A communication from the Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Regulation of Fuel and Fuel Additives: Gasoline and Diesel Fuel Test Method Update'' (FRL#7566–3) received on September 30, 2003; to the Committee on Environment and Public Works.

EC–4637. A communication from the Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Revision to the California State Implementation Plan, San Joaquin Valley Unified Air Pollution Control District'' (FRL#7563–6) received on September 30, 2003; to the Committee on Environment and Public Works.

EC–4638. A communication from the Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Standards of Performance for Volatile Organic Liquid Storage Vessels (Including Petroleum Liquid Storage Vessels) for Which Construction, Reconstruction, or Modification Commenced After July 23, 1984'' (FRL#7566–2) received on September 30, 2003; to the Committee on Environment and Public Works.

EC–4639. A communication from the Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Use of Alternative Analytical Test Methods in the Reformulated Gasoline, Anti-Dumping, and Tier 2 Gasoline Sulfur Control Programs'' (FRL#7566–6) received on September 30, 2003; to the Committee on Environment and Public Works.

EC–4640. A communication from the Acting Administrator, Environmental Protection Agency, transmitting, pursuant to law, the Agency's FY 2003–2008 Strategic Plan; to the Committee on Environment and Public Works.

EC–4641. A communication from the Assistant Secretary for Fish and Wildlife and Parks, Fish and Wildlife Service, National Wildlife Refuge System transmitting, pursuant to law, the report of a rule entitled ''2003–2004 Refuge-Specific Hunting and Sport Fishing Regulations'' (RIN1018–AI63) received on October 2, 2003; to the Committee on Environment and Public Works.

EC–4642. A communication from the Deputy Director, Office of Surface Mining, Department of the Interior, transmitting, pursuant to law, the report of a rule entitled ''Pennsylvania Regulatory Program'' (PA–144–FOR) received on October 2, 2003; to the Committee on Environment and Public Works.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. STEVENS, from the Committee on Appropriations:

Report to accompany S. 1689, An original bill making emergency supplemental appropriations for Iraq and Afghanistan security and reconstruction for the fiscal year ending September 30, 2004, and for other purposes (Rept. No. 108–160).

By Mr. McCAIN, from the Committee on Commerce, Science, and Transportation, without amendment:

S. 1478. A bill to reauthorize the National Telecommunications and Information Administration, and for other purposes (Rept. No. 108–161).

By Mr. LUGAR, from the Committee on Foreign Relations, without amendment and with a preamble:

S. Res. 230. A resolution calling on the People's Republic of China immediately and unconditionally to release Rebiya Kadeer, and for other purposes.

S. Res. 231. A resolution commending the Government and people of Kenya.

By Mr. HATCH, from the Committee on the Judiciary, with an amendment in the nature of a substitute:

S. 1580. A bill to amend the Immigration and Nationality Act to extend the special immigrant religious worker program.

By Mr. LUGAR, from the Committee on Foreign Relations, without amendment and with a preamble:

S. Con. Res. 66. A concurrent resolution commending the National Endowment for Democracy for its contributions to democratic development around the world on the occasion of the 20th anniversary of the establishment of the National Endowment for Democracy.

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. LUGAR for the Committee on Foreign Relations.

*Richard Eugene Hoagland, of the District of Columbia, a Career Member of the Senior Foreign Service, Class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Tajikistan.

*Pamela P. Willeford, of Texas, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to Switzerland, and to serve concurrently and without additional compensation as Ambassador Extraordinary and Plenipotentiary of the United States of America to the Principality of Liechtenstein.

*James Casey Kenny, of Illinois, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to Ireland.

*Randall L. Tobias, of Indiana, to be Coordinator of United States Government Activities to Combat HIV/AIDS Globally, with the rank of Ambassador.

*W. Robert Pearson, of Tennessee, a Career Member of the Senior Foreign Service, Class of Minister-Counselor, to be Director General of the Foreign Service.

*William Cabaniss, of Alabama, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Czech Republic.

*David L. Lyon, of California, a Career Member of the Senior Foreign Service, to serve concurrently and without additional compensation as Ambassador Extraordinary and Plenipotentiary of the United States of America to be Ambassador to the Republic of Kiribati.

*Roderick R. Paige, of Texas, to be a Representative of the United States of America to the Thirty-second Session of the General Conference of the United Nations Educational, Scientific, and Cultural Organization.

*H. Douglas Barclay, of New York, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of El Salvador.

*Robert B. Charles, of Maryland, to be an Assistant Secretary of State (International Narcotics and Law Enforcement Affairs).

Mr. LUGAR. Mr. President, for the Committee on Foreign Relations I report favorably the following nomination list which was printed in the RECORD on the date indicated, and ask unanimous consent, to save the expense of reprinting on the Executive Calendar that this nomination lie at the Secretary's desk for the information of Senators.

The PRESIDING OFFICER. Without objection, it is so ordered.

*Foreign Service nomination of Pamela A. White.

By Ms. COLLINS for the Committee on Governmental Affairs.

*C. Suzanne Mencer, of Colorado, to be the Director of the Office for Domestic Preparedness, Department of Homeland Security.

By Mr. HATCH for the Committee on the Judiciary.

Charles W. Pickering, Sr., of Mississippi, to be United States Circuit Judge for the Fifth Circuit.

Margaret Catharine Rodgers, of Florida, to be United States District Judge for the Northern of Florida.

Roger W. Titus, of Maryland, to be United States District Judge for the District of Maryland.

Karin J. Immergut, of Oregon, to be United States Attorney for the District of Oregon for the term of four years.

*Nomination was reported with recommendation that it be confirmed subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.

(Nominations without an asterisk were reported with the recommendation that they be confirmed.)

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second times by unanimous consent, and referred as indicated:

By Mr. FEINGOLD:

S. 1701. A bill to limit authority to delay notice of search warrants; to the Committee on the Judiciary.

By Mr. SMITH (for himself, Mr. GRAHAM of Florida, Mrs. BOXER, Mr. CHAFEE, Mr. CORZINE, and Mr. WYDEN):

S. 1702. A bill to amend the Internal Revenue Code of 1986 to extend the exclusion from gross income for employer-provided health coverage to designated plan beneficiaries of employees, and for other purposes; to the Committee on Finance.

By Mr. SMITH:

S. 1703. A bill to amend the Internal Revenue Code of 1986 to provide a credit against income tax for expenditures for the maintenance of railroad tracks of Class II and Class III railroads; to the Committee on Finance.

By Ms. COLLINS (for herself, Mr. PRYOR, Mr. COLEMAN, and Mr. BINGAMAN):

S. 1704. A bill to amend the Public Health Service Act to establish a State family support grant program to end the practice of parents giving legal custody of their seriously emotionally disturbed children to State agencies for the purpose of obtaining mental health services for those children; to the Committee on Health, Education, Labor, and Pensions.

By Mr. KENNEDY (for himself, Mr. JEFFORDS, Mr. CHAFEE, Mr. LIEBERMAN, Mr. AKAKA, Mr. BAUCUS, Mr. BAYH, Mr. BIDEN, Mr. BINGAMAN, Mrs. BOXER, Mr. BREAUX, Ms. CANTWELL, Mr. CARPER, Mrs. CLINTON, Ms. COLLINS, Mr. CORZINE, Mr. DASCHLE, Mr. DAYTON, Mr. DODD , Mr. DORGAN, Mr. DURBIN, Mr. EDWARDS, Mr. FEINGOLD, Mrs. FEINSTEIN, Mr. GRAHAM of Florida, Mr. HARKIN, Mr. INOUYE, Mr. KERRY, Mr. KOHL, Ms. LANDRIEU, Mr. LAUTENBERG, Mr. LEAHY, Mr. LEVIN, Ms. MIKULSKI, Mrs. MURRAY, Mr. NELSON of Florida, Mr. REED, Mr. REID, Mr. SARBANES, Mr. SCHUMER, Mr. SMITH, Mr. SPECTER, Ms. STABENOW, and Mr. WYDEN):

S. 1705. A bill to prohibit employment discrimination on the basis of sexual orientation; to the Committee on Health, Education, Labor, and Pensions.

By Mr. SCHUMER (for himself, Mr. HATCH, Mr. CRAIG, Mr. KENNEDY, Mr. MCCAIN, Mr. CHAFEE, Mrs. LINCOLN, and Mr. DURBIN):

S. 1706. A bill to improve the National Instant Criminal Background Check System, and for other purposes; to the Committee on the Judiciary.

By Ms. STABENOW:

S. 1707. A bill to amend title 39, United States Code, to provide for free mailing privileges for personal correspondence and certain parcels sent from within the United States to members of the Armed Forces serving on active duty abroad who are engaged in military operations involving armed conflict against a hostile foreign force, and for other purposes; to the Committee on Governmental Affairs.

By Mr. KENNEDY (for himself, Mrs. CLINTON, Mr. DURBIN, Mrs. MURRAY, Ms. CANTWELL, Mr. SARBANES, Mr. LEVIN, Mr. ROCKEFELLER, Mr. REED, and Mr. WYDEN):

S. 1708. A bill to provide extended unemployment benefits to displaced workers, and to make other improvements in the unemployment insurance system; to the Committee on Finance.

By Mr. CRAIG (for himself, Mr. DURBIN, Mr. CRAPO, Mr. FEINGOLD, Mr. SUNUNU, Mr. WYDEN, and Mr. BINGAMAN):

S. 1709. A bill to amend the USA PATRIOT ACT to place reasonable limitations on the use of surveillance and the issuance of search warrants, and for other purposes; to the Committee on the Judiciary.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. LOTT (for himself and Mr. DODD):

S. Res. 238. A resolution authorizing regulations relating to the use of official; considered and agreed to.

By Mr. FRIST:

S. Con. Res. 71. A concurrent resolution providing for a conditional adjournment or recess of the Senate; considered and agreed to.

ADDITIONAL COSPONSORS

S. 349

At the request of Mrs. FEINSTEIN, the name of the Senator from Alaska (Ms. MURKOWSKI) was added as a cosponsor of S. 349, a bill to amend title II of the Social Security Act to repeal the Government pension offset and windfall elimination provisions.

S. 478

At the request of Mr. SARBANES, the name of the Senator from Maryland (Ms. MIKULSKI) was added as a cosponsor of S. 478, a bill to grant a Federal charter Korean War Veterans Association, Incorporated, and for other purposes.

S. 859

At the request of Mr. CORZINE, the name of the Senator from California (Mrs. BOXER) was added as a cosponsor of S. 859, a bill to amend the Public Health Service Act with respect to facilitating the development of microbicides for preventing transmission of HIV and other diseases.

S. 985

At the request of Mr. DODD, the name of the Senator from Georgia (Mr. CHAMBLISS) was added as a cosponsor of S. 985, a bill to amend the Federal Law Enforcement Pay Reform Act of 1990 to adjust the percentage differentials payable to Federal law enforcement officers in certain high-cost areas, and for other purposes.

S. 986

At the request of Mr. REID, the name of the Senator from Rhode Island (Mr. CHAFEE) was added as a cosponsor of S. 986, a bill to designate Colombia under section 244 of the Immigration and Nationality Act in order to make nationals of Colombia eligible for temporary protected status under such section.

S. 1222

At the request of Mr. NELSON of Nebraska, the name of the Senator from Massachusetts (Mr. KERRY) was added as a cosponsor of S. 1222, a bill to amend title XVIII of the Social Security Act to require the Secretary of Health and Human Services, in determining eligibility for payment under the prospective payment system for inpatient rehabilitation facilities, to apply criteria consistent with rehabilitation impairment categories established by the Secretary for purposes of such prospective payment system.

S. 1396

At the request of Ms. SNOWE, the name of the Senator from Washington (Ms. CANTWELL) was added as a cosponsor of S. 1396, a bill to require equitable coverage of prescription contraceptive drugs and devices, and contraceptive services under health plans.

S. 1422

At the request of Mr. CORZINE, the name of the Senator from Mississippi (Mr. COCHRAN) was added as a cosponsor of S. 1422, a bill to provide assistance to train teachers of children with autism spectrum disorders, and for other purposes.

S. 1557

At the request of Mr. MCCONNELL, the name of the Senator from Virginia (Mr. ALLEN) was added as a cosponsor of S. 1557, a bill to authorize the extension of nondiscriminatory treatment (normal trade relations treatment) to the products of Armenia.

S. 1558

At the request of Mr. ALLARD, the name of the Senator from Wyoming (Mr. ENZI) was added as a cosponsor of S. 1558, a bill to restore religious freedoms.

S. 1595

At the request of Mr. KERRY, the name of the Senator from Indiana (Mr. BAYH) was added as a cosponsor of S. 1595, a bill to amend the Internal Revenue Code of 1986 to allow small business employers a credit against income tax with respect to employees who participate in the military reserve components and are called to active duty and with respect to replacement employees and to allow a comparable credit for activated military reservists who are self-employed individuals, and for other purposes.

S. 1622

At the request of Mr. GRAHAM of Florida, the names of the Senator from Michigan (Ms. STABENOW) and the Senator from Mississippi (Mr. COCHRAN) were added as cosponsors of S. 1622, a bill to amend title 10, United States Code, to exempt certain members of the Armed Forces from the requirement to pay subsistence charges while hospitalized.

S. 1642

At the request of Mr. LEAHY, the name of the Senator from Kansas (Mr. BROWNBACK) was added as a cosponsor of S. 1642, a bill to extend the duration of the immigrant investor regional center pilot program for 5 additional years, and for other purposes.

S. 1645

At the request of Mr. CRAIG, the names of the Senator from Louisiana (Mr. BREAUX), the Senator from Montana (Mr. BURNS), the Senator from Arkansas (Mrs. LINCOLN) and the Senator from New Mexico (Mr. BINGAMAN) were added as cosponsors of S. 1645, a bill to provide for the adjustment of status of certain foreign agricultural workers, to amend the Immigration and Nationality Act to reform the H–2A worker program under that Act, to provide a stable, legal agricultural workforce, to extend basic legal protections and better working conditions to more workers, and for other purposes.

S. 1653

At the request of Mr. INOUYE, the name of the Senator from New Jersey (Mr. LAUTENBERG) was added as a cosponsor of S. 1653, a bill to ensure that recreational benefits are given the same priority as hurricane and storm damage reduction benefits and environmental restoration benefits.

S. CON. RES. 66

At the request of Mr. MCCAIN, his name was added as a cosponsor of S. Con. Res. 66, a concurrent resolution commending the National Endowment for Democracy for its contributions to democratic development around the world on the occasion of the 20th anniversary of the establishment of the National Endowment for Democracy.

AMENDMENT NO. 1790

At the request of Mr. SCHUMER, the names of the Senator from New York (Mrs. CLINTON), the Senator from South Dakota (Mr. JOHNSON) and the Senator from North Carolina (Mr. EDWARDS) were added as cosponsors of amendment No. 1790 proposed to H.R. 2765, a bill making appropriations for the government of the District of Columbia and other activities chargeable in whole or in part against the revenues of said District for the fiscal year ending September 30, 2004, and for other purposes.

AMENDMENT NO. 1795

At the request of Ms. COLLINS, her name was added as a cosponsor of amendment No. 1795 proposed to S. 1689, an original bill making emergency supplemental appropriations for Iraq and Afghanistan security and reconstruction for the fiscal year ending September 30, 2004, and for other purposes.

AMENDMENT NO. 1796

At the request of Mr. CARPER, his name was added as a cosponsor of amendment No. 1796 proposed to S. 1689, an original bill making emergency supplemental appropriations for Iraq and Afghanistan security and reconstruction for the fiscal year ending September 30, 2004, and for other purposes.

AMENDMENT NO. 1796

At the request of Mr. BIDEN, the name of the Senator from New York (Mrs. CLINTON) was added as a cosponsor of amendment No. 1796 proposed to S. 1689, supra.

AMENDMENT NO. 1798

At the request of Mrs. HUTCHISON, the name of the Senator from Kansas (Mr. BROWNBACK) was added as a cosponsor of amendment No. 1798 intended to be proposed to S. 1689, an original bill making emergency supplemental appropriations for Iraq and Afghanistan security and reconstruction for the fiscal year ending September 30, 2004, and for other purposes.

AMENDMENT NO. 1799

At the request of Mr. COLEMAN, the names of the Senator from Tennessee (Mr. ALEXANDER), the Senator from Georgia (Mr. CHAMBLISS), the Senator from North Dakota (Mr. CONRAD), the Senator from Idaho (Mr. CRAIG), the Senator from Ohio (Mr. DEWINE), the Senator from New Mexico (Mr. DOMENICI), the Senator from Nevada (Mr. ENSIGN), the Senator from New Hampshire (Mr. GREGG), the Senator from Alaska (Ms. MURKOWSKI), the Senator from Pennsylvania (Mr. SANTORUM), the Senator from New Hampshire (Mr. SUNUNU), the Senator from Illinois (Mr. DURBIN), the Senator from Texas (Mrs. HUTCHISON), the Senator from West Virginia (Mr. BYRD) and the Senator from Colorado (Mr. CAMPBELL) were added as cosponsors of amendment No. 1799 intended to be proposed to S. 1689, an original bill making emergency supplemental appropriations for Iraq and Afghanistan security and reconstruction for the fiscal year ending September 30, 2004, and for other purposes.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. FEINGOLD:

S. 1701. A bill to delay notice of search warrants; to the Committee on the Judiciary.

Mr. FEINGOLD. Mr. President, today I will introduce in the Senate the Reasonable Notice and Search Act. This bill addresses the provision of the USA PATRIOT Act that has caused perhaps the most concern among Members of Congress. Section 213 of the PATRIOT Act, sometimes referred to as the ''delayed notice search provision'' or the ''sneak and peek provision,'' authorizes the Government in limited circumstances to conduct a search without immediately serving a search warrant on the owner or occupant of the premises that have been searched.

Prior to the PATRIOT Act, secret searches for physical evidence were performed in some jurisdictions under the authority of Court of Appeals decisions, but the Supreme Court never definitively ruled whether they were constitutional. Section 213 of the Patriot Act authorized delayed notice warrants in any case in which an ''adverse result'' would occur if the warrant were served before the search was executed. Adverse result was defined as including: 1. Endangering the life or physical safety of an individual; 2. flight from prosecution; 3. destruction of or tampering with evidence; 4. intimidation of potential witnesses; or 5. otherwise seriously jeopardizing an investigation or unduly delaying a trial. These circumstances went beyond what court decisions had authorized before the PATRIOT Act. In addition, while some courts had required the service of the warrant within a specified period of time, the PATRIOT Act simply required that the warrant specify that it would be served within a ''reasonable'' period of time after the search.

It is interesting to note that this provision of the PATRIOT Act was not limited to terrorism cases. Nor was it made subject to the sunset provision that will cause most of the new surveillance provisions of the act to expire at the end of 2005 unless Congress reenacts them. So Section 213 was pretty clearly a provision that the Department of Justice wanted regardless of the terrorism threat after 9/11.

Perhaps that is why this provision has caused such controversy since it was passed. Just over 2 months ago, by a wide bipartisan margin, the House passed an amendment to the Commerce-Justice-State appropriations bill offered by Representative OTTER from

Idaho, a Republican, to stop funding for delayed notice searches authorized under section 213. The size of the vote took the Department by surprise, and it immediately set out to defend the provision aggressively. Clearly, this is a power that DOJ does not want to lose.

I raised concern about the sneak and peek provision when it was included in the Patriot Act and even considered offering an amendment at that time to strip it out. I did not believe there had been adequate study and analysis of the justifications for these searches and the potential safeguards that might be included. I did not argue then, however, and I am not arguing now that there should be no delayed notice searches at all and that the provision should be repealed. I do believe, however, that it should be modified to protect against abuse. My bill will do four things to accomplish this.

First, my bill would narrow the circumstances in which a delayed notice warrant can be granted to the following: potential loss of life, flight from prosecution, or destruction or tampering with evidence. The ''catch-all provision'' in section 213, allowing a secret search when serving the warrant would ''seriously jeopardize an investigation or unduly delay a trial'' is too easily susceptible to abuse.

Second, I believe that any delayed notice warrant should provide for a specific and limited time period within which notice must be given—7 days. This is consistent with some of the pre-PATRIOT Act court decisions and will help to bring this provision in closer accord with the fourth amendment to the Constitution. Under my bill, prosecutors will be permitted to seek 7-day extensions if circumstances continue to warrant that the subject not be made aware of the search. But the default should be a week, unless a court is convinced that more time should be permitted.

Third, Section 213 should be brought into the group of PATRIOT Act provisions that will sunset at the end of 2005. This will allow Congress to reexamine this provision along with the other provisions of the act, which was passed within 6 weeks of the 9/11 attacks, to determine if the balance between civil liberties and law enforcement has been correctly struck.

Finally, the bill requires a public report on the number of times that section 213 is used and the number of times that extensions are sought beyond the 7-day notice period. This information will help the public and Congress evaluate the need for this authority and determine whether it should be retained or modified after the sunset.

These are reasonable and moderate changes to the law. They do not gut the provision. They do not make it worthless. They do recognize the growing and legitimate concern from across the political spectrum that this provision was passed in haste and presents the potential for abuse. They also send a message that fourth amendment rights have meaning and potential violations of those rights should be minimized if at all possible. I urge my colleagues to support this bill and I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1701

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Reasonable Notice and Search Act''.

SEC. 2. LIMITATION ON AUTHORITY TO DELAY NOTICE OF SEARCH WARRANTS.

Section 3103a of title 18, United States Code, is amended—

(1) in subsection (b)—

(A) in paragraph (1), by striking ''may have an adverse result (as defined in section 2705)'' and inserting ''will endanger the life or physical safety of an individual, result in flight from prosecution, or result in the destruction of or tampering with the evidence sought under the warrant''; and

(B) in paragraph (3), by striking ''a reasonable period'' and all that follows and inserting ''7 calendar days, which period, upon application of the Attorney General, the Deputy Attorney General, or an Associate Attorney General, may thereafter be extended by the court for additional periods of up to 7 calendar days each if the court finds, for each application, reasonable cause to believe that notice of the execution of the warrant will endanger the life or physical safety of an individual, result in flight from prosecution, or result in the destruction of or tampering with the evidence sought under the warrant.''; and

(2) by adding at the end the following:

''(c) REPORTS.—

''(1) IN GENERAL.—On a semiannual basis, the Attorney General shall transmit to Congress and make public a report concerning all requests for delays of notice, and for extensions of delays of notice, with respect to warrants under subsection (b).

''(2) CONTENTS.—Each report under paragraph (1) shall include, with respect to the preceding 6-month period—

''(A) the total number of requests for delays of notice with respect to warrants under subsection (b);

''(B) the total number of such requests granted or denied; and

''(C) for each request for delayed notice that was granted, the total number of applications for extensions of the delay of notice and the total number of such extensions granted or denied.''.

SEC. 3. SUNSET ON DELAYED NOTICE AUTHORITY.

(a) PATRIOT ACT.—Section 224(a) of the USA PATRIOT Act of 2001 (Public Law 107–56; 115 Stat. 295) is amended by striking ''213,''.

(b) AMENDMENTS.—The amendments made by this Act shall sunset as provided in section 224 of the USA PATRIOT Act of 2001.

By Mr. SMITH (for himself, Mr. GRAHAM of Florida, Mrs. BOXER, Mr. CHAFEE, Mr. CORZINE, and Mr. WYDEN):

S. 1702. A bill to amend the Internal Revenue Code of 1986 to extend the exclusion from gross income for employer-provided health coverage to designated plan beneficiaries of employees, and for other purposes; to the Committee on Finance.

Mr. SMITH. Mr. President, I rise today to speak about the need for consistent tax treatment of employer-provided health insurance for domestic partners. Today, Senator BOB GRAHAM and I are introducing the Domestic Partner Health Benefits Equity Act, a bill that seeks to simplify the tax code and address the growing trend among both public and private employers who have decided to provide domestic partner benefits to their employees.

More than one-third of Fortune 500 companies, as well as numerous State and local governments, are providing health insurance benefits to the domestic partners of their employees. This is a clear trend in the American workplace. However, Federal tax law has not kept pace with corporate changes in this area and employers who offer such benefits and the employees who receive them are taxed inequitably. Our legislation would provide consistent tax treatment for employer-provided health insurance for domestic partners.

Currently, the tax code provides that the employer's contribution of the premium for health insurance for an employee's spouse is excluded from the employee's taxable income. An employer's contribution for the domestic partner's coverage, however, is included in an employee's taxable income as a fringe benefit. In addition, the employer's payroll tax liability is increased. This forces businesses to create a two-track payroll system for benefits provided to spouses and those provided to domestic partners, an administrative burden that this legislation would eliminate.

I believe that by passing this legislation and changing current law, we will increase the number of Americans covered by health insurance by providing employers with a tax incentive. The tax code should not penalize employers for offering these benefits to their employees.

I urge my colleagues to join me and support the Domestic Partner Health Benefits Equity Act. I ask unanimous consent that the text of this legislation be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1702

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Domestic Partner Health Benefits Equity Act''.

SEC. 2. EXTENSION OF EXCLUSION FOR AMOUNTS RECEIVED BY AN EMPLOYEE THROUGH ACCIDENT OR HEALTH INSURANCE AS REIMBURSEMENT FOR EXPENSES FOR MEDICAL CARE.

(a) IN GENERAL.—Section 105(b) of the Internal Revenue Code of 1986 (relating to amounts expended for medical care) is amended—

(1) by striking ''Except in the case'' and inserting the following:

''(1) IN GENERAL.—Except in the case'',

(2) by adding at the end of paragraph (1) as redesignated in paragraph (1) the following new sentence: ''For the purposes of this subsection, the term 'dependents' shall include any individual who is an eligible beneficiary as defined in the employer's accident or health insurance arrangement.'', and

(3) by adding at the end the following new paragraph:

''(2) APPLICABLE PERCENTAGE OF EXCLUSION FOR CERTAIN AMOUNTS.—

''(A) IN GENERAL.—In the case of taxable years beginning after December 31, 2004, and before January 1, 2011, the exclusion from income applicable by reason of the third sentence of paragraph (1) shall be equal to the applicable percentage of the amount which would (but for this paragraph) be the amount of such exclusion.

''(B) APPLICABLE PERCENTAGE.—For purposes of subparagraph (A), the applicable percentage shall be determined in accordance with the following table:

"For taxable years beginning in calendar year—	The applicable percentage is—
2005, 2006, or 2007	25
2008, 2009, 2010	50.''.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2004.

SEC. 3. EXTENSION OF EXCLUSION FOR CONTRIBUTIONS BY EMPLOYER TO ACCIDENT AND HEALTH PLANS.

(a) IN GENERAL.—Section 106 of the Internal Revenue Code of 1986 (relating to contributions by employer to accident and health plans) is amended by adding at the end the following new subsection:

''(d) COVERAGE PROVIDED FOR ELIGIBLE BENEFICIARIES OF EMPLOYEES.—

''(1) IN GENERAL.—Subsection (a) shall not fail to apply by reason of the coverage of an eligible beneficiary as defined in the employer's accident or health plan.

''(2) APPLICABLE PERCENTAGE OF EXCLUSION FOR CERTAIN COVERAGE.—

''(A) IN GENERAL.—In the case of taxable years beginning after December 31, 2004, and before January 1, 2011, the exclusion from income applicable by reason of paragraph (1) shall be equal to the applicable percentage of the amount which would (but for this paragraph) be the amount of such exclusion.

''(B) APPLICABLE PERCENTAGE.—For purposes of subparagraph (A), the applicable percentage shall be determined in accordance with the following table:

"For taxable years beginning in calendar year—	The applicable percentage is—
2005, 2006, or 2007	25
2008, 2009, 2010	50.''.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2004.

SEC. 4. EXTENSION OF DEDUCTION FOR HEALTH INSURANCE COSTS OF SELF-EMPLOYED INDIVIDUALS.

(a) IN GENERAL.—Paragraph (1) of section 162(l) of the Internal Revenue Code of 1986 (relating to special rules for health insurance costs of self-employed individuals) is amended to read as follows:

''(1) ALLOWANCE OF DEDUCTION.—

''(A) IN GENERAL.—In the case of an individual who is an employee within the meaning of section 401(c)(1), there shall be allowed as a deduction under this section an amount equal to the amount paid during the taxable year for insurance which constitutes medical care for the taxpayer, his spouse, and dependents. For the purposes of this subparagraph, the term 'dependents' shall include any individual who is an eligible beneficiary as defined in the insurance arrangement which constitutes medical care.

''(B) APPLICABLE PERCENTAGE OF DEDUCTION FOR CERTAIN AMOUNTS.—

''(i) IN GENERAL.—In the case of taxable years beginning after December 31, 2004, and before January 1, 2011, the deduction applicable by reason of the second sentence of subparagraph (A) shall be equal to the applicable percentage of the amount which would (but for this subparagraph) be the amount of such deduction.

''(ii) APPLICABLE PERCENTAGE.—For purposes of clause (i), the applicable percentage shall be determined in accordance with the following table:

"For taxable years beginning in calendar year—	The applicable percentage is—
2005, 2006, or 2007	25
2008, 2009, 2010	50.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 2004.

SEC. 5. EXTENSION OF SICK AND ACCIDENT BENEFITS PROVIDED TO MEMBERS OF A VOLUNTARY EMPLOYEES' BENEFICIARY ASSOCIATION AND THEIR DEPENDENTS.

(a) IN GENERAL.—Section 501(c)(9) of the Internal Revenue Code of 1986 (relating to list of exempt organizations) is amended by adding at the end the following new sentence: ''For purposes of providing for the payment of sick and accident benefits to members of such an association and their dependents, the term 'dependents' shall include any individual who is an eligible beneficiary as determined under the terms of a medical benefit, health insurance, or other program under which members and their dependents are entitled to sick and accident benefits.''.

(b) APPLICABLE PERCENTAGE OF PAYMENT OF CERTAIN SICK AND ACCIDENT BENEFITS.—Section 501 of the Internal Revenue Code of 1986 (relating to exemption from tax on corporations, certain trusts, etc.) is amended by redesignating subsection (p) as subsection (q) and by inserting after subsection (o) the following new subsection:

''(p) APPLICABLE PERCENTAGE OF PAYMENT OF CERTAIN SICK AND ACCIDENT BENEFITS.—

''(1) IN GENERAL.—In the case of taxable years beginning after December 31, 2004, and before January 1, 2011, the exemption from tax applicable by reason of the second sentence of subsection (c)(9) shall be equal to the applicable percentage of the amount which would (but for this subsection) be the amount of such exemption.

''(2) APPLICABLE PERCENTAGE.—For purposes of paragraph (1), the applicable percentage shall be determined in accordance with the following table:

"For taxable years beginning in calendar year—	The applicable percentage is—
2005, 2006, or 2007	25
2008, 2009, 2010	50.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2004.

SEC. 6. AMENDMENTS TO VARIOUS DEFINITIONS.

(a) FICA.—

(1) IN GENERAL.—Section 3121 of the Internal Revenue Code of 1986 (relating to definitions) is amended by adding at the end the following new subsection:

''(z) EXCLUSION OF CERTAIN AMOUNTS FROM WAGES.—

''(1) IN GENERAL.—For purposes of applying subsection (a) with respect to expenses described in paragraph (2)(B) of such subsection, the term 'dependents' shall include any individual who is an eligible beneficiary as defined in the plan or system established by the employer.

''(2) APPLICABLE PERCENTAGE OF EXCLUSION FROM WAGES.—

''(A) IN GENERAL.—In the case of taxable years beginning after December 31, 2004, and before January 1, 2011, the exclusion from wages applicable by reason of paragraph (1) shall be equal to the applicable percentage of the amount which would (but for this paragraph) be the amount of such exclusion.

''(B) APPLICABLE PERCENTAGE.—For purposes of subparagraph (A), the applicable percentage shall be determined in accordance with the following table:

"For taxable years beginning in calendar year—	The applicable percentage is—
2005, 2006, or 2007	25
2008, 2009, 2010	50.''.

(2) CONFORMING AMENDMENT.—Section 209 of the Social Security Act (42 U.S.C. 409) is amended by adding at the end the following new subsection:

''(l)(1) For purposes of applying subsection (a) with respect to medical or hospitalization expenses described in paragraph (2) thereof, the term 'dependents' shall include any individual who is an eligible beneficiary as defined in the plan or system established by the employer.

''(2)(A) In the case of taxable years beginning after December 31, 2004, and before January 1, 2011, the exclusion from wages applicable by reason of paragraph (1) shall be equal to the applicable percentage of the amount which would (but for this paragraph) be the amount of such exclusion.

''(B) For purposes of subparagraph (A), the applicable percentage shall be determined in accordance with the following table:

"For taxable years beginning in calendar year—	The applicable percentage is—
2005, 2006, or 2007	25
2008, 2009, 2010	50.''.

(b) RAILROAD RETIREMENT.—

(1) IN GENERAL.—Section 3231(e) of the Internal Revenue Code of 1986 (defining compensation) is amended by adding at the end the following new paragraph:

''(11) TREATMENT OF CERTAIN DEPENDENTS.—

''(A) IN GENERAL.—For purposes of applying this subsection with respect to medical or hospitalization expenses described in paragraph (1)(i), the term 'dependents' shall include any individual who is an eligible beneficiary as defined in the plan or system established by the employer.

''(B) APPLICABLE PERCENTAGE OF EXCLUSION FROM COMPENSATION.—

''(i) IN GENERAL.—In the case of taxable years beginning after December 31, 2004, and before January 1, 2011, the exclusion from compensation applicable by reason of subparagraph (A) shall be equal to the applicable percentage of the amount which would (but for this subparagraph) be the amount of such exclusion.

''(ii) APPLICABLE PERCENTAGE.—For purposes of clause (i), the applicable percentage shall be determined in accordance with the following table:

"For taxable years beginning in calendar year—	The applicable percentage is—
2005, 2006, or 2007	25
2008, 2009, 2010	50.''.

(2) CONFORMING AMENDMENT.—Section 1(h) of the Railroad Retirement Act of 1974 (45 U.S.C. 231(h)) is amended by adding at the end the following new paragraph:

''(9)(A) For purposes of applying this subsection, with respect to medical or hospitalization expenses described in paragraph (6)(v), the term 'dependents' shall include any individual who is an eligible beneficiary as defined in the plan or system established by the employer.

''(B)(i) In the case of taxable years beginning after December 31, 2004, and before January 1, 2011, the exclusion from compensation applicable by reason of subparagraph

(A) shall be equal to the applicable percentage of the amount which would (but for this subparagraph) be the amount of such exclusion.

''(ii) For purposes of clause (i), the applicable percentage shall be determined in accordance with the following table:

''For taxable years beginning in calendar year—	The applicable percentage is—
2005, 2006, or 2007	25
2008, 2009, 2010	50.''.

(c) FUTA.—Section 3306 of the Internal Revenue Code of 1986 (relating to definitions) is amended by adding at the end the following new subsection:

''(v) EXCLUSION OF CERTAIN AMOUNTS FROM WAGES.—

''(1) IN GENERAL.—For purposes of applying subsection (b) with respect to expenses described in paragraph (2)(B) of such subsection, the term 'dependents' shall include any individual who is an eligible beneficiary as defined in the plan or system established by the employer.

''(2) APPLICABLE PERCENTAGE OF EXCLUSION FROM WAGES.—

''(A) IN GENERAL.—In the case of taxable years beginning after December 31, 2004, and before January 1, 2011, the exclusion from wages applicable by reason of paragraph (1) shall be equal to the applicable percentage of the amount which would (but for this paragraph) be the amount of such exclusion.

''(B) APPLICABLE PERCENTAGE.—For purposes of subparagraph (A), the applicable percentage shall be determined in accordance with the following table:

''For taxable years beginning in calendar year—	The applicable percentage is—
2005, 2006, or 2007	25
2008, 2009, 2010	50.''.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to remuneration paid after December 31, 2004.

Mr. GRAHAM of Florida. Mr. President, I am pleased to join my colleague from Oregon, Senator SMITH, in introducing the Domestic Partner Health Benefits Equity Act, which corrects an inequity in our current tax law. Employees who receive health benefits from their employers are not taxed on the value of this benefit. The tax benefit also applies to health care that covers the employee's spouse and dependents.

In growing numbers, both public and private sector employers are providing domestic partner benefits to employees. For example, more than one-third of the Fortune 500 companies and 146 State and local governments provide such benefits. Unlike health benefits provided to their other employees, however, health care that covers a domestic partner is taxable to both the employee and the employer.

An employer's payroll tax liability is calculated based on its employees' taxable incomes. When contributions for domestic partner benefits are included in employees' incomes, employers pay higher payroll taxes. This provision also places an administrative burden on employers by requiring them to identify those employees utilizing their benefits for a partner rather than a spouse. Employers must then calculate the portion of their contribution that is attributable to the partner, and create and maintain a separate payroll function for these employees' income tax withholding and payroll tax. Thus, the employer is penalized for making a sound business decision that contributes to stability in the workforce.

Senator SMITH and I have drafted legislation to amend the tax law to allow health benefits to domestic partners to be received by employees on the same tax-free basis as ''spouses.'' Specifically, the bill changes the definition of ''dependent'' in the code—for purposes of employer-provided health benefits only—to be any beneficiary allowed by the health plan.

Although the primary beneficiaries of this legislation will be employees with domestic partners, the change will also benefit employees who provide health insurance to family members who may not qualify as a ''dependent'' under current law. For example, the change would make it easier for an employee to include a brother, sister or parent on an employer's health plan even if the employee does not provide more than one-half of the support for that individual, a requirement for a person being a ''dependent''.

I commend Senator SMITH for his leadership in correcting this inequity in our tax laws. I also thank Senators CHAFEE, WYDEN, CORZINE and BOXER for joining us in this effort. I urge my colleagues to cosponsor our bill.

By Mr. SMITH:

S. 1703. A bill to amend the Internal Revenue Code of 1986 to provide a credit against income tax for expenditures for the maintenance of railroad tracks of Class II and Class III railroads; to the Committee on Finance.

Mr. SMITH. Mr. President, I rise today with Senators WYDEN, BROWNBACK, SPECTER, and BURNS to introduce the Local Railroad Rehabilitation and Investment Act. The bill provides a Federal tax credit for short line railroad rehabilitation and addresses a critical need in small town America.

There are some 500 short line railroads serving large areas of the country that are no longer served by the large Class I railroads. These railroads keep our farmers and our small businesses connected to the national main line railroad system and are the only alternative to increasing truck traffic on local roads.

Many of today's short lines were once the light density branch lines of the large Class I railroads. As Class I systems began to lose money, these branch lines received little investment and were gradually abandoned. As an alternative to abandonment, the Federal Government encouraged spinning off these lines to form new local railroads that would preserve service and jobs.

Today, this local service is threatened due to the introduction of the new, heavier 286,000-pound railcar that the Class I's are making the new industry standard. Because of the interconnectivity of our Nation's rail network, short lines are forced to use these heavier cars. This places an added strain on track structure and makes rehabilitation even more important and more urgent. Studies indicate that it will take $7 billion in new investment for our nation's short lines to accommodate these heavier rail cars.

My legislation is not intended to fund this entire rehabilitation. Rather, it is intended to help small railroads make the improvements required to grow traffic so they can earn the additional investment income needed to complete the $7 billion capital upgrade.

Short lines operate 50,000 miles of track in 49 states, employ over 23,000 workers at an average wage of $47,000, and earn $3 billion in annual revenue. Railroading is one of the most capital-intensive industries in the country. That capital effort is also labor intensive and my legislation will result in the immediate creation of jobs needed to undertake these rehabilitation projects.

The major provisions of the Local Railroad Rehabilitation and Investment Act include:

Authorization of a federal tax credit against qualified railroad track maintenance expenditures paid or incurred by a taxpayer during taxable years 2004 to 2008.

The qualified railroad track maintenance expenditures include expenditures, whether or not otherwise chargeable to capital account, for maintaining or upgrading railroad track, including roadbed, bridges and related structures, owned or leased by the taxpayer of a Class II or Class III railroad.

The total tax credit is capped at $10,000 for every mile of railroad track owned or leased by a Class II or Class III railroad, provided that the expenditure is certified by the State as part of an essential rail upgrade. For example, a 20-mile railroad qualifies for a $200,000 credit.

And, to maximize private investment in this critical infrastructure, the bill allows railroads that are unable to fully utilize credits earned to transfer such credits to other railroads, railroad shippers, or railroad suppliers and contractors.

For rural America, the specter of losing rail access is a serious matter. As characterized in the American Association of State Highway Transportation Officials' (AASHTO) recent Freight-Rail Bottom Line Report, short lines ''often provide the first and last service miles in the door-to-door collection and distribution of railcars.'' The Association of American Railroads estimates that short lines originate or terminate one out of every four carloads moved by the domestic railroad industry. Preserving short line rail service is important to the national transportation system; it is absolutely critical to the rural transportation system. This legislation provides a modest and efficient way to help the short line industry help itself.

I urge my colleagues to join me and support this important legislation. I

ask unanimous consent that the text of the legislation be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1703

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Local Railroad Rehabilitation and Investment Act of 2003''.

SEC. 2. CREDIT FOR MAINTENANCE OF RAILROAD TRACK.

(a) IN GENERAL.—Subpart D of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 (relating to business-related credits) is amended by adding at the end the following new section:

''SEC. 45G. RAILROAD TRACK MAINTENANCE CREDIT.

''(a) GENERAL RULE.—For purposes of section 38, the railroad track maintenance credit determined under this section for the taxable year is the amount of qualified railroad track maintenance expenditures paid or incurred by the taxpayer during the taxable year.

''(b) LIMITATION.—The credit allowed under subsection (a) shall not exceed the product of—

''(1) $10,000, and

''(2) the number of miles of railroad track owned or leased by the taxpayer as of the close of the taxable year.

''(c) QUALIFIED RAILROAD TRACK MAINTENANCE EXPENDITURES.—For purposes of this section, the term 'qualified railroad track maintenance expenditures' means expenditures (whether or not otherwise chargeable to capital account) for maintaining railroad track (including roadbed, bridges, and related track structures) owned or leased by the taxpayer of Class II or Class III railroads (as determined by the Surface Transportation Board).

''(d) CONTROLLED GROUPS.—For purposes of subsection (b), rules similar to the rules of paragraph (1) of section 41(f) shall apply for purposes of this subsection.

''(e) BASIS ADJUSTMENT.—For purposes of this subtitle, if a credit is allowed under this section with respect to any railroad track, the basis of such track shall be reduced by the amount of the credit so allowed.

''(f) APPLICATION OF SECTION.—This section shall apply to qualified railroad track maintenance expenditures paid or incurred during taxable years beginning after December 31, 2003, and before January 1, 2009.

''(g) CREDIT TRANSFERABILITY.—

''(1) IN GENERAL.—Any credit allowable under this section may be transferred as provided in this subsection, and the determination as to whether the credit is allowable shall be made without regard to the tax-exempt status of the transferor.

''(2) TRANSFER TO ELIGIBLE TAXPAYER.—Any credit transferred under paragraph (1) shall be transferred to an eligible taxpayer. Any credit so transferred shall be allowed to the transferee, but the transferee may not assign such credit to any other person.

''(3) ELIGIBLE TAXPAYER.—For purposes of this subsection, the term 'eligible taxpayer' means—

''(A) any person who transports property using the rail facilities of the taxpayer or who furnishes railroad-related property or services to the taxpayer, and

''(B) any Class II or Class III railroad.

''(4) MINIMUM PRICE FOR TRANSFER.—No transfer shall be allowed under this subsection unless the transferor receives compensation for the credit transfer equal to at least 50 percent of the amount of credit transferred. The excess of the amount of credit transferred over the compensation received by the transferor for such transfer shall be included in the gross income of the transferee.''.

(b) LIMITATION ON CARRYBACK.—Section 39(d) of the Internal Revenue Code of 1986 (relating to transition rules) is amended by adding at the end the following new paragraph:

''(11) NO CARRYBACK OF RAILROAD TRACK MAINTENANCE CREDIT BEFORE EFFECTIVE DATE.—No portion of the unused business credit for any taxable year which is attributable to the railroad track maintenance credit determined under section 45G may be carried to a taxable year beginning before January 1, 2004.''.

(c) CONFORMING AMENDMENTS.—

(1) Section 38(b) of the Internal Revenue Code of 1986 (relating to general business credit) is amended by striking ''plus'' at the end of paragraph (14), by striking the period at the end of paragraph (15) and inserting '', plus'', and by adding at the end the following new paragraph:

''(16) the railroad track maintenance credit determined under section 45G(a).''.

(2) Subsection (a) of section 1016 of such Code is amended by striking ''and'' at the end of paragraph (27), by striking the period at the end of paragraph (28) and inserting '', and'', and by adding at the end the following new paragraph:

''(29) in the case of railroad track with respect to which a credit was allowed under section 45G, to the extent provided in section 45G(e).''.

(d) CLERICAL AMENDMENT.—The table of sections for subpart D of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 is amended by inserting after the item relating to section 45F the following new item:

''Sec. 45G. Railroad track maintenance credit.''.

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2003.

By Ms. COLLINS (for herself, Mr. PRYOR, Mr. COLEMAN, and Mr. BINGAMAN):

S. 1704. A bill to amend the Public Health Service Act to establish a State family support grant program to end the practice of parents giving legal custody of their seriously emotionally disturbed children to State agencies for the purpose of obtaining mental health services for those children; to the committee on Health, Education, Labor, and Pensions.

Ms. COLLINS. Mr. President, I am pleased to join my colleagues Senators PRYOR, COLEMAN and BINGAMAN in introducing the ''Keeping Families Together Act.'' Among other provisions, our bill authorizes a new, competitive State grant program to support statewide systems for care for children with serious mental illness so that parents are no longer forced to give up custody of their children solely for the purpose of securing mental health treatment.

Serious mental illness afflicts millions of our Nation's children and adolescents. It is estimated that as many as 20 percent of American children under the age of 17 suffer from a mental, emotional or behavioral illness. Of these, nearly half have a condition that produces a serious disability that impairs the child's ability to function in day-to-day activities. What is even more disturbing is the fact that two-thirds of all young people who need mental health treatment are not getting it.

Behind each of these statistics is a family that is struggling to do the best it can to help a son or daughter with a serious mental illness to be just like every other kid—to develop friendships, to do well in school, and to get along with their siblings and other family members. These children are almost always involved with more than one social service agency, including the mental health, special education, child welfare, and juvenile justice systems. Yet no one agency, at either the State or the Federal level, is clearly responsible or accountable for helping these children.

Recent news reports in more than 30 States have highlighted the difficulties that parents of children with serious mental illness have in getting the coordinated mental health services that their children need. My interest in this issue was triggered by a compelling series of stories by Barbara Walsh in the Portland Press Herald last summer which detailed the obstacles that many Maine families have faced in getting care for their children.

Too many families in Maine and elsewhere have been forced to make wrenching decisions when they have been advised that the only way to get the care that their children so desperately need is to relinquish custody and place them in either the child welfare or juvenile justice system.

Yet neither system is intended to serve children with serious mental illness. Child welfare systems are designed to protect children who have been abused or neglected. Juvenile justice systems are designed to rehabilitate children who have committed criminal or delinquent acts and to prevent such acts from occurring. While neither of these systems is equipped to care for a child with a serious mental illness, in far too may cases, there is nowhere else for the family to turn.

Earlier this year, the General Accounting Office (GAO) completed a report that I requested with Representatives PETE STARK and PATRICK KENNEDY titled ''Child Welfare and Juvenile Justice: Federal Agencies Could Play a Stronger Role in Helping States Reduce the Number of Children Placed solely to Obtain Mental Health Services.''

The GAO surveyed child welfare directors in all States and the District of Columbia, as well as juvenile justice officials in the 33 counties with the largest number of young people in their juvenile justice systems. According to the GAO survey, in 2001, parents placed more than 12,700 children into the child welfare or juvenile justice systems so that these children could receive mental health services.

Moreover, the GAO estimate is likely just the tip of the iceberg, since 32 States—including the five States with the largest populations of children—did not provide the GAO with any data.

There have been other studies indicating that the custody relinquishment problem is pervasive. In 1999, the National Alliance for the Mentally Ill released a survey which found that 23 percent—or one in four of the parents surveyed—had been told by public officials that they needed to relinquish custody of their children to get care, and that one in five of these families had done so.

While some States have passed laws to limit or prohibit custody relinquishment, simply banning the practice is not a solution, since it can leave mentally ill children and their families without services and care. Custody relinquishment is merely a symptom of the much larger problem, which is the lack of available, affordable and appropriate mental health services and support systems for these children and their families.

In July, I chaired a series of hearings in the Committee on Governmental Affairs to examine the difficult challenges faced by families of children with mental illnesses. We heard compelling testimony from families who told the Committee about their personal struggles to get mental health services for their severely ill children. The mothers who testified told us they were advised that the only way to get the intensive care and services that their children needed was to relinquish custody and place them in the child welfare system. This is a wrenching decision that no family should be forced to make. No parent should have to give up custody of his or her child just to get the services that the child needs.

The legislation that we are introducing today was developed in response to concerns raised by both the GAO report and in the Governmental Affairs Committee hearings.

First, the legislation authorizes $55 million for competitive grants to States that would be payable over six years to create an infrastructure to support and sustain statewide systems of care to serve children who are in custody or at risk of entering custody of the State for the purpose of receiving mental health services. These grants are intended to help states serve these children more effectively and efficiently, while keeping them at home with their families.

States would use funds from these Family Support Grants to foster interagency cooperation and cross-system financing among the various State agencies with responsibilities for serving children with mental health needs. The funds would also support the purchase and delivery of a comprehensive array of community-based mental health and family support services for children who are in custody, or at risk of entering into the custody of the State for the purpose of receiving mental health services. This will allow States, which already dedicate significant dollars to serving children in state custody, to use those resources more efficiently by delivering care to children while allowing them to remain with their families.

In response to recommendation made by the GAO report, the Keeping Families Together Act will also establish a Federal interagency task force to examine mental health issues in the child welfare and juvenile justice systems and the role of their agencies in promoting access by children and youth to mental health services.

And finally, the legislation will remove a current statutory barrier that prevents more states from using the Medicaid home and community-based services waiver to serve children with serious mental health conditions. The Medicaid home and community-based services waiver is a promising way for States to reduce the incidence of custody relinquishment and address the underlying lack of mental health services for children. While a number of States have requested these waivers to serve children with developmental disabilities, to date very few have done so for children with serious mental health conditions. That is because, under current law, States can only offer home- and community-based services under these waivers as an alternative to care in hospitals, nursing facilities, or intermediate care facilities for the mentally retarded. Our legislation will correct this omission and provide parity to children with mental illness by including inpatient psychiatric hospitals and residential treatment facilities on the list of institutions for which alternative care through the Medicaid home- and community-based services waivers may be available.

The legislation we are introducing today will help to reduce the barriers to care for children who suffer from mental illness and will assist States in eliminating the practice of parents relinquishing custody of their children to State agencies solely for the purpose of securing mental health services.

Our legislation has been endorsed by a number of mental health and children's groups including the National Alliance for the Mentally Ill, the Federation of Families for Children's Mental Health, the National Child Welfare League, the Bazelon Center, the Children's Defense Fund, and the National Mental Health Association. I urge all of my colleagues to join us as cosponsors.

By Mr. KENNEDY (for himself, Mr. JEFFORDS, Mr. CHAFEE, Mr. LIEBERMAN, Mr. AKAKA, Mr. BAUCUS, Mr. BAYH, Mr. BIDEN, Mr. BINGAMAN, Mrs. BOXER, Mr. BREAUX, Ms. CANTWELL, Mr. CARPER, Mrs. CLINTON, Ms. COLLINS, Mr. CORZINE, Mr. DASCHLE, Mr. DAYTON, Mr. DODD, Mr. DORGAN, Mr. DURBIN, Mr. EDWARDS, Mr. FEINGOLD, Mrs. FEINSTEIN, Mr. GRAHAM of Florida, Mr. HARKIN, Mr. INOUYE, Mr. KERRY, Mr. KOHL, Ms. LANDRIEU, Mr. LAUTENBERG, Mr. LEAHY, Mr. LEVIN, Ms. MIKULSKI, Mrs. MURRAY, Mr. NELSON of Florida, Mr. REED, Mr. REID, Mr. SARBANES, Mr. SCHUMER, Mr. SMITH, Mr. SPECTER, Ms. STABENOW, and Mr. WYDEN):

S. 1705. A bill to prohibit employment discrimination on the basis of sexual orientation; to the Committee on Health, Education, Labor, and Pensions.

Mr. KENNEDY. Mr. President, it's a privilege to join my colleagues in introducing the Employment Non-Discrimination Act of 2003.

Civil rights is the unfinished business of our nation. Title VII of the Civil Rights Act of 1964 gives all Americans—without regard to race, ethnic background, gender, or religion—the opportunity to obtain and keep a job. The Employment Non-Discrimination Act is an essential additional step in preventing job discrimination.

The act is straightforward and limited. It prohibits discrimination based on sexual orientation in making decisions about hiring, firing, promotion, and compensation. It makes clear that there is no right to preferential treatment, and that quotas are prohibited. It does not apply to employers with less than 15 employees. It does not apply to the armed forces, religious organizations, or such volunteer positions as troop leaders in the Boy Scouts or Girl Scouts.

In fact, this fundamental additional protection for America's workforce is long overdue. Too many hardworking Americans are being judged on their sexual orientation, rather than their ability and qualifications.

Consider the example of Kendall Hamilton in Oklahoma City. After working at Red Lobster for several years and receiving excellent reviews, he applied for promotion at the urging of the general manager, who knew he was gay. His application was rejected after a co-worker revealed his sexual orientation to the upper management team, and the promotion was given instead to another employee who had been on the job for only 9 months—and whom Mr. Hamilton had trained. He was told that his sexual orientation ''was not compatible with Red Lobster's belief in family values,'' and that being gay had destroyed any chance of becoming a manager. As a result, Hamilton left the company.

Consider the example of Steve Morrison, a firefighter in Oregon. His coworkers saw him on the local news protesting an anti-gay initiative, and incorrectly assumed he was gay himself. He began to lose workplace responsibilities and was the victim of harassment, including hate mail. After a long administrative proceeding, the trumped-up charges were removed from his record, and he was transferred to another fire station.

The overwhelming majority of Americans believe that this kind of discrimination is wrong. According to a 2003 Gallup study, 88 percent of Americans believe that gays and lesbians should have equal job opportunities. The Employment Non-Discrimination Act is strongly supported by labor unions and a broad religious coalition. They know that America will not reach its full potential or realize its promise of equal justice and equal opportunity for all until we end all forms of discrimination.

Over 60 percent of Fortune 500 companies have implemented non-discrimination policies that include sexual orientation. Our legislation has been endorsed by leading corporations such as AT&T, BP, Cisco Systems, Eastman Kodak, FleetBoston, General Mills, Hewlett-Packard, IBM, JP Morgan Chase & Co., Microsoft, Nike, Oracle, Shell Oil, and Verizon.

Small businesses support our legislation as well. At a hearing in 2001, Lucy Billingsly, a Republican small business owner in Dallas, said, ''A uniform Federal law banning sexual orientation discrimination will give businesses the right focus. By paying attention to the quality of work being done and not to factors that have nothing to do with job performance, all of America's businesses will perform better.''

Despite broad-based support in the business community and Congress's history of enacting anti-discrimination legislation, some argue that the solution to the problem of job discrimination on the basis of sexual orientation should be left to the States. I disagree. Only 14 States and the District of Columbia have laws similar to the Employment Non-Discrimination Act. Too many American workers are left without redress. A Federal law is clearly needed to ensure that all Americans receive equal treatment in the workplace.

Hard-working citizens in every State deserve the opportunity to feel secure in their jobs when they perform well, and they deserve the opportunity to compete in the workplace when they are qualified for a job. Job discrimination based on sexual orientation is unacceptable, and I urge my colleagues to support this bill.

Mr. LIEBERMAN. Mr. President, I am delighted to join with Senators KENNEDY, CHAFEE, JEFFORDS and many other colleagues as an original cosponsor of this important legislation, the Employment Non-Discrimination Act of 2003. By guaranteeing that American workers cannot lose their jobs simply because of their sexual orientation, this bill would extend the bedrock American values of fairness and equality to a group of our fellow citizens who too often have been denied the benefit of those most basic values.

More than 225 years ago, Thomas Jefferson laid out a vision of America as dedicated to the simple idea that all of us are created equal, endowed by our creator with the unalienable rights to life, liberty and the pursuit of happiness. As Jefferson knew, our society did not in his time live up to that ideal, but since his time, we have been trying to. In succeeding generations, we have worked ever harder to ensure that our society removes unjustified barriers to individual achievement and that we judge each other solely on our merits and not on characteristics that are irrelevant to the task at hand. We are still far from perfect, but we have made much progress, especially over the past few decades, guaranteeing equality and fairness to an increasing number of groups that traditionally have not had the benefits of those values and of those protections. To African-Americans, to women, to disabled Americans, to religious minorities and to others we have extended a legally enforceable guarantee that, with respect to their ability to earn a living at least, they will be treated on their merits and not on characteristics unrelated to their ability to do their jobs.

It is time to extend that guarantee to gay men and lesbians, who too often have been denied the most basic of rights: the right to obtain and maintain a job. A collection of 1 national survey and 20 city and State surveys found that as many as 44 percent of gay, lesbian and bisexual workers faced job discrimination in the workplace at some time in their careers. Other studies have reported even greater discrimination—as much as 68 percent of gay men and lesbians reporting employment discrimination. The fear in which these workers live was clear from a survey of gay men and lesbians in Philadelphia. Over three-quarters told those conducting the survey that they sometimes or always hide their orientation at work out of fear of discrimination.

The toll this discrimination takes extends far beyond its effect on the individuals who live without full employment opportunities. It also takes an unacceptable toll on America's definition of itself as a land of equality and opportunity, as a place where we judge each other on our merits, and as a country that teaches its children that anyone can succeed here as long as they are willing to do their job and work hard.

This bill provides for equality and fairness—that and no more. It says only what we already have said for women, for people of color and for others; that you are entitled to have your ability to earn a living depend only on your ability to do the job and nothing else.

This bill would bring our nation one large step closer to realizing the vision that Thomas Jefferson so eloquently expressed 227 years ago when he wrote that all of us have a right to life, liberty and the pursuit of happiness. I urge my colleagues to join me in supporting this important legislation.

By Ms. STABENOW:

S. 1707. A bill to amend title 39, United States Code, to provide for free mailing privileges for personal correspondence and certain parcels sent from within the United States to members of the Armed Forces serving on active duty abroad who are engaged in military operations involving armed conflict against a hostile foreign force, and for other purposes; to the Committee on Governmental Affairs.

Ms. STABENOW. Mr. President, I rise today to introduce the Providing Our Support to Troops or POST Act of 2003. This bill would provide free mailing privileges for letters and packages sent from within the United States to members of the Armed Forces serving on active duty abroad who are engaged in military operations involving armed conflict against a hostile foreign force. This bill is a companion bill to Representative LUCAS's H.R. 2705, a bill with 31 bipartisan cosponsors in the House of Representatives.

Our troops overseas can send mail and packages to their loved ones at no cost, but their families must pay postage to do the same. As the holidays approach, the families back here in the States are not only not able to give their Christmas or Hanukah presents to their loved ones in person, but they have to pay postage to do so.

Two constituents of mine, both mothers of servicemen in Iraq, brought this inequity to my attention. Renee Walton from Lincoln Park, MI, mother of twins Jeremy and Joshua who are serving in the Marine Corps, writes, ''I believe this is something all the troops' families will benefit from and most especially the soldier who is waiting patiently for a package from home.''

Suzann Sareini, a Dearborn resident, says, ''As a mother of one of the brave individuals in our armed forces fighting for this country, I believe this act exhibits a tremendous amount of patriotic gratitude for the sacrifices being made by members of the military and their families. This small gesture would be invaluable in its contribution to the morale of our soldiers waiting patiently for packages from back home.''

I wholeheartedly agree with these two Michigan moms.

Currently 2,500 Michigan Guard and Reserves are on active duty, many of whom are serving in Iraq or Afghanistan or fighting the war against terrorism around the globe. That means that there are thousands of families who will have an empty seat at the Thanksgiving table and will be missing a loved one during the holidays. But, by providing free postage for these families, we are making it easier for them to stay in touch with their loved ones and provide them with moral support. This is only fair since our service men and women have so unselfishly made great sacrifices to protect us and our country. This is a small gesture, but one that will speak loudly in the hearts of our troops and their families.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1707

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Providing Our Support to Troops Act of 2003''.

SEC. 2. FREE MAILING PRIVILEGES.

(a) IN GENERAL.—Chapter 34 of title 39, United States Code, is amended by adding at the end the following:

''§ 3407. Free postage for personal correspondence and certain parcels mailed to members of Armed Forces of the United States

''(a) IN GENERAL.—The matter described in subsection (b) (other than matter described in subsection (c)) may be mailed free of postage, if—

''(1) such matter is sent from within an area served by a United States post office;

''(2) such matter is addressed to an individual who is a member of the Armed Forces of the United States on active duty, as defined in section 101 of title 10, or a civilian, authorized to use postal services at Armed Forces installations, who holds a position or performs one or more functions in support of military operations, as designated by the military theater commander; and

''(3)(A) such matter is addressed to the individual referred to in paragraph (2) at an Armed Forces post office established in an overseas area with respect to which a designation under section 3401(a)(1)(A) is in effect; or

''(B) in the case of an individual who is hospitalized at a facility under the jurisdiction of the Armed Forces of the United States as a result of a disease or injury described in section 3401(a)(1)(B), such matter is addressed to such individual at an Armed Forces post office determined under subsection (f).

''(b) MAIL MATTER DESCRIBED.—The free mailing privilege provided by subsection (a) is extended to—

''(1) letter mail or sound- or video-recorded communications having the character of personal correspondence; and

''(2) parcels not exceeding 10 pounds in weight and 60 inches in length and girth combined.

''(c) LIMITATION.—The free mailing privilege provided by subsection (a) does not extend to mail matter that contains any advertising.

''(d) RATE OF POSTAGE.—Any matter which is mailed under this section shall be mailed at the equivalent rate of postage which assures that the mail will be sent by the most economical means practicable.

''(e) MARKING.—All matter mailed under this section shall bear, in the upper right-hand corner of the address area, the words 'Free Matter for Members of the Armed Forces of the United States', or words to that effect specified by the Postal Service.

''(f) REGULATIONS.—This section shall be administered under such conditions, and under such regulations, as the Postal Service and the Secretary of Defense jointly may prescribe.''.

(b) FUNDING.—

(1) FREE POSTAGE.—Sections 2401(c) and 3627 of title 39, United States Code, are amended by striking ''3406'' and inserting ''3407''.

(2) AIR TRANSPORTATION.—

(A) IN GENERAL.—Section 2401 of title 39, United States Code, is amended by redesignating subsections (d) through (g) as subsections (e) through (h), respectively, and by inserting after subsection (c) the following:

''(d) There are authorized to be appropriated to the Postal Service each year a sum determined by the Postal Service to be equal to the expenses incurred by the Postal Service in providing air transportation for mail sent to members of the Armed Forces of the United States free of postage under section 3407, not including the expense of air transportation that is provided by the Postal Service at the same postage rate or charge for mail which is not addressed to an Armed Forces post office.''.

(B) AMENDMENT TO PREVENT DUPLICATIVE FUNDING.—Section 3401(e) of title 39, United States Code, is amended by striking ''office.'' and inserting ''office or (3) for which amounts are authorized to be appropriated to the Postal Service under section 2401(d).''.

(C) TECHNICAL AND CONFORMING AMENDMENTS.—

(i) ANNUAL BUDGET.—Section 2009 of title 39, United States Code, is amended in the next to last sentence by striking ''(b) and (c)'' and inserting ''(b), (c), and (d)''.

(ii) COMPREHENSIVE PLAN REFERENCES.—Sections 2803(a) and 2804(a) of such title 39 are amended by striking ''2401(g)'' and inserting ''2401(f)''.

(c) CHAPTER ANALYSIS.—The analysis for chapter 34 of title 39, United States Code, is amended by adding at the end the following:

''3407. Free postage for personal correspondence and certain parcels mailed to Members of the Armed Forces of the United States.''.

By Mr. CRAIG (for himself, Mr. DURBIN, Mr. CRAPO, Mr. FEINGOLD, Mr. SUNUNU, Mr. WYDEN, and Mr. BINGAMAN):

S. 1709. A bill to amend the USA PATRIOT ACT to place reasonable limitations on the use of surveillance and the issuance of search warrants, and for other purposes; to the Committee on the Judiciary.

Mr. CRAIG. Mr. President, I rise today on behalf of myself and Senators DURBIN, CRAPO, FEINGOLD, SUNUNU, and BINGAMAN, to introduce the Security and Freedom Ensured Act of 2003, which we call the SAFE Act.

This bill is aimed at addressing some specific concerns that have been raised about the USA PATRIOT Act. We believe this is a measured, reasonable, and appropriate response that would ensure the liberties of law-abiding individuals are protected in our Nation's fight against terrorism, without in any way impeding that fight.

Let me say at the outset that I voted in favor of the USA PATRIOT Act. I believed then, and still do, that it was the right thing to do in the wake of the terrible and unprecedented attacks on our Nation on September 11, 2001. I would also like to express my gratitude to those brave men and women who put their lives on the line every day to protect the American people from further attacks by would-be terrorists and criminals. The Department of Justice and Department of Homeland Security should be commended for the dramatic progress they are making in detecting, pursuing, and stopping those who pose a threat to our Nation and our people.

Even so, the USA PATRIOT Act is not a perfect law, and it is no criticism of those who are so ably waging the war against terrorism to suggest that it may be in order to amend some aspects of that law.

The SAFE Act is intended to do just that: make some commonsense changes that help to safeguard our freedoms, without sacrificing our security. It focuses on areas of activity that have been particularly controversial: delayed notice warrants, which are also referred to as ''sneak and peek'' warrants; wiretaps that do not require specificity as to either person or place; the impact of the new law on libraries; and nationwide search warrants. Our bill would amend, not eliminate these tools or repeal the USA PATRIOT Act in these areas.

I spend a lot of time on the ground in my home State of Idaho, and regardless of the pride Idahoans have in the success of the war on terrorism, many of them continue to raise concerns about the tools being used in that war. Admittedly, a lot of misinformation has been spread about the USA PATRIOT Act, and I applaud the Administration for working to correct that misinformation. However, not all of the concerns about the law are unfounded or misguided, and I strongly believe they deserve a proper airing in Congress. Furthermore, one has only to look at the cosponsors of the SAFE Act to see that these concerns are not unique to Idahoans—they are shared by a wide regional and political spectrum.

This morning, the Chairman and Ranking Member of the Senate Judiciary Committee announced a series of hearings on how our anti-terrorism laws are working. As a member of that committee, I look forward to the opportunity of exploring these issues in detail and finding solutions for any problems we discover, possibly including the SAFE Act. The changes this bill makes are not numerous or sweeping, but they are significant. I hope my colleagues will agree and will support the legislation we are introducing today.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1709

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Security and Freedom Ensured Act of 2003'' or the ''SAFE Act''.

SEC. 2. LIMITATION ON ROVING WIRETAPS UNDER FOREIGN INTELLIGENCE SURVEILLANCE ACT OF 1978.

Section 105(c) of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1805(c)) is amended—

(1) in paragraph (1), by striking subparagraphs (A) and (B) and inserting the following:

''(A)(i) the identity of the target of electronic surveillance, if known; or

''(ii) if the identity of the target is not known, a description of the target and the nature and location of the facilities and places at which the electronic surveillance will be directed;

''(B)(i) the nature and location of each of the facilities or places at which the electronic surveillance will be directed, if known; and

''(ii) if any of the facilities or places are unknown, the identity of the target;''; and

(2) in paragraph (2)—

(A) by redesignating subparagraphs (B) through (D) as subparagraphs (C) through (E), respectively; and

(B) by inserting after subparagraph (A), the following:

''(B) in cases where the facility or place at which the surveillance will be directed is not known at the time the order is issued, that the surveillance be conducted only when the presence of the target at a particular facility or place is ascertained by the person conducting the surveillance;''.

SEC. 3. LIMITATION ON AUTHORITY TO DELAY NOTICE OF SEARCH WARRANTS.

(a) IN GENERAL.—Section 3103a of title 18, United States Code, is amended—

(1) in subsection (b)—

(A) in paragraph (1), by striking ''may have an adverse result (as defined in section 2705)'' and inserting ''will—

''(A) endanger the life or physical safety of an individual;

''(B) result in flight from prosecution; or

''(C) result in the destruction of, or tampering with, the evidence sought under the warrant''; and

(B) in paragraph (3), by striking ''within a reasonable period'' and all that follows and inserting ''not later than 7 days after the execution of the warrant, which period may be extended by the court for an additional period of not more than 7 days each time the court finds reasonable cause to believe, pursuant to a request by the Attorney General, the Deputy Attorney General, or an Associate Attorney General, that notice of the execution of the warrant will—

''(A) endanger the life or physical safety of an individual;

''(B) result in flight from prosecution; or

''(C) result in the destruction of, or tampering with, the evidence sought under the warrant.''; and

(2) by adding at the end the following:

''(c) REPORTS.—

''(1) IN GENERAL.—Every 6 months, the Attorney General shall submit a report to Congress summarizing, with respect to warrants under subsection (b), the requests made by the Department of Justice for delays of notice and extensions of delays of notice during the previous 6-month period.

''(2) CONTENTS.—Each report submitted under paragraph (1) shall include, for the preceding 6-month period—

''(A) the number of requests for delays of notice with respect to warrants under subsection (b), categorized as granted, denied, or pending; and

''(B) for each request for delayed notice that was granted, the number of requests for extensions of the delay of notice, categorized as granted, denied, or pending.

''(3) PUBLIC AVAILABILITY.—The Attorney General shall make the report submitted under paragraph (1) available to the public.''.

(b) SUNSET PROVISION.—

(1) IN GENERAL.—Subsections (b) and (c) of section 3103a of title 18, United States Code, shall cease to have effect on December 31, 2005.

(2) EXCEPTION.—With respect to any particular foreign intelligence investigation that began before the date on which the provisions referred to in paragraph (1) cease to have effect, or with respect to any particular offense or potential offense that began or occurred before the date on which the provisions referred to in paragraph (1) cease to have effect, such provisions shall continue in effect.

SEC. 4. PRIVACY PROTECTIONS FOR LIBRARY, BOOKSELLER, AND OTHER PERSONAL RECORDS UNDER FOREIGN INTELLIGENCE SURVEILLANCE ACT OF 1978.

(a) APPLICATIONS FOR ORDERS.—Section 501(b)(2) of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1861(b)(2)) is amended—

(1) by striking ''shall specify that the records'' and inserting ''shall specify that—

''(A) the records''; and

(2) by striking the period at the end and inserting the following: ''; and

''(B) there are specific and articulable facts giving reason to believe that the person to whom the records pertain is a foreign power or an agent of a foreign power.''.

(b) ORDERS.—Section 501(c)(1) of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1861(c)(1)) is amended by striking ''finds that'' and all that follows and inserting ''finds that—

''(A) there are specific and articulable facts giving reason to believe that the person to whom the records pertain is a foreign power or an agent of a foreign power; and

''(B) the application meets the other requirements of this section.''.

(c) OVERSIGHT OF REQUESTS FOR PRODUCTION OF RECORDS.—Section 502(a) of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1862) is amended to read as follows:

''(a) On a semiannual basis, the Attorney General shall, with respect to all requests for the production of tangible things under section 501, fully inform—

''(1) the Select Committee on Intelligence of the Senate;

''(2) the Committee on the Judiciary of the Senate;

''(3) the Permanent Select Committee on Intelligence of the House of Representatives; and

''(4) the Committee on the Judiciary of the House of Representatives.''.

SEC. 5. PRIVACY PROTECTIONS FOR COMPUTER USERS AT LIBRARIES UNDER NATIONAL SECURITY AUTHORITY.

Section 2709 of title 18, United States Code, is amended—

(1) in subsection (a)—

(A) by striking ''A wire'' and inserting the following:

''(1) IN GENERAL.—A wire''; and

(B) by adding at the end the following:

''(2) EXCEPTION.—A library shall not be treated as a wire or electronic communication service provider for purposes of this section.''; and

(2) by adding at the end the following:

''(f) DEFINED TERM.—In this section, the term 'library' means a library (as that term is defined in section 213(2) of the Library Services and Technology Act (20 U.S.C. 9122(2)) whose services include access to the Internet, books, journals, magazines, newspapers, or other similar forms of communication in print or digitally to patrons for their use, review, examination, or circulation.''.

SEC. 6. EXTENSION OF PATRIOT SUNSET PROVISION.

Section 224(a) of the USA PATRIOT ACT (18 U.S.C. 2510 note) is amended—

(1) by striking ''213, 216, 219,''; and

(2) by inserting ''and section 505'' after ''by those sections)''.

Mr. DURBIN. Mr. President, the USA PATRIOT Act, the counterterrorism bill that the Bush administration pushed through Congress after the September 11 terrorist attacks, has been the focus of much controversy in recent months. I voted for the PATRIOT Act, as did the vast majority of my colleagues in the Congress. I believed then, and I still believe, that the PATRIOT Act made many reasonable and necessary changes in the law.

For example, the PATRIOT Act tripled the number of Federal agents at the Northern border, an area that had been greatly understaffed. It allocated $100 million to upgrade technology for monitoring the Northern border. It expedited the hiring of FBI translators, who were desperately needed to translate intelligence after 9/11.

Most importantly, the PATRIOT Act updated information technology and enhanced information sharing between Federal agencies, especially the FBI and the CIA. As we learned after 9/11, the failure of these agencies to communicate with each other may have prevented law enforcement from uncovering the 9/11 plot before that terrible day.

However, the PATRIOT Act contains several controversial provisions that I and many of my colleagues believe went too far. The Bush administration placed Congress in a very difficult situation by insisting on including these provisions in the bill. We were able to amend or sunset some of the most troubling components of the bill. However, many remained in the final version. As a result, the PATRIOT Act makes it much easier for the FBI to monitor the innocent activities of American citizens with minimal or no judicial oversight. For example:

The FBI can now seize records on the books you check out of the library or the videos you rent, simply by certifying that the records are sought for a terrorism or intelligence investigation, a very low standard. A court no longer has authority to question the FBI's certification. The FBI no longer must show that the documents relate to a suspected terrorist or spy.

The FBI can conduct a ''sneak and peek'' search of your home, not notifying you of the search until after a ''reasonable period,'' a term which is not defined in the PATRIOT Act. A court is now authorized to issue a ''sneak and peek'' warrant where a court finds ''reasonable cause'' that providing immediate notice of the warrant would have an ''adverse result,'' a very broad standard. The use of ''sneak and peek'' warrants is not limited to terrorism cases.

The FBI can obtain a ''John Doe'' roving wiretap, which does not specify the target of the wiretap or the place to be wiretapped. This increases the likelihood that the conversations of innocent people wholly unrelated to an investigation will be intercepted.

Many in Congress did not want to deny law enforcement some of the reasonable reforms contained in the PATRIOT Act that they needed to combat terrorism. So, we reluctantly decided to support the administration's version of the bill, but not until we secured a commitment that they would be responsive to Congressional oversight and consult extensively with us before seeking any further changes in the law.

Unfortunately, the Justice Department has reneged on their commitment to Congress, frustrating oversight on the PATRIOT Act at every turn. Attorney General Ashcroft only rarely appears on Capitol Hill. In fact, he has only testified before the Senate Judiciary Committee, of which I am a member, once this year. He appeared, along with two other administration officials, for just half a day. The Justice Department regularly fails to answer congressional inquiries, either arguing that requested information is classified, or simply not responding at all.

At the same time, the administration's allies in Congress have argued that the PATRIOT Act's sunset clauses should be repealed before we have had an opportunity to review their effectiveness. Earlier this year, we learned that the administration had secretly drafted another sweeping counterterrorism bill, ''PATRIOT Act II,'' without consulting with Congress. This bill would grant the Justice Department even broader authority, such as the right to strip Americans of their citizenship.

That proposal generated widespread opposition, but, unchastened, the administration went on the offensive again recently. On the anniversary of the 9/11 attacks, President Bush proposed new legislation that would give the Justice Department the authority to issue so-called administrative subpoenas, without judicial review, create 15 new federal death penalty crimes, and mandate pretrial detention for defendants accused of a laundry list of crimes, many of them unrelated to terrorism. These proposals continue the Administration's pattern of seeking to limit judicial oversight and grant broad, unchecked authority to law enforcement.

While they are pushing radical changes in the law, the Bush administration has failed to take commonsense steps to prevent terrorism, like developing fully interoperable information systems and creating a consolidated terrorist watch list. Most of the information systems now within the Department of Homeland Security's jurisdiction were acquired and developed independently within the former agencies in a parochial ''stovepipe'' fashion, and may be incompatible with other DHS systems. The Bush administration indicated that an initial inventory of these systems would be completed by this spring. I understand that inventory is still not completed.

This April, the GAO concluded that nine different agencies still develop and maintain a dozen terrorist watch lists, including overlapping and different data, and inconsistent procedures and policies on information sharing. The law creating the Department of Homeland Security requires the Department to consolidate watch lists. The Bush Administration promised that these lists would be consolidated by the first day of Homeland Security's operations. Seven months later, the lists are still not consolidated.

The Bush administration has devoted too many resources to counterterrorism measures that threaten our civil liberties and do little to improve our security. For example, John Ashcroft's Justice Department has launched a number of high-profile initiatives that explicitly target immigrants, especially Arabs and Muslims, for heightened scrutiny. These efforts squander precious law enforcement resources and alienate communities whose cooperation we desperately need. They run counter to basic principles of community policing, which reject the use of racial and ethnic profiles and focus on building trust and respect by working cooperatively with community members.

The Justice Department's own Inspector General has found that the Justice Department has not adequately distinguished between terrorism suspects and other immigration detainees. The IG found that the Justice Department detained 762 aliens as a result of the September 11 investigation, exactly zero of whom were charged with terrorist-related offenses. No one is suggesting that the Department should never use immigration charges to detain a suspected terrorist, but the broad brush of terrorism should not be applied to large numbers of every out-of-status immigrants who happen to be Arab or Muslim.

Many of us in Congress have raised concerns with the Justice Department about implementation of the PATRIOT Act and other civil liberties issues, and, rather than respond to legitimate concerns, they have gone on the offensive. In testimony before the Judiciary Committee, Attorney General John Ashcroft warned his critics:

> To those who scare peace-loving people with phantoms of lost liberty; my message is this: Your tactics only aid terrorists—for they erode our national unity and diminish our resolve. They give ammunition to America's enemies, and pause to America's friends. They encourage people of good will to remain silent in the face of evil.

It is unacceptable to dismiss those who raise legitimate concerns about civil liberties as terrorist sympathizers.

For the American people, the PATRIOT Act has become a potent symbol of the Justice Department's poor record on civil liberties. In fact, three states, Alaska, Hawaii, and Vermont, and over 180 cities and counties across the country, including Chicago in my home State of Illinois, have passed resolutions opposing provisions of the PATRIOT Act.

Almost 2 years after its passage, I believe that it is time to revisit the debate about the PATRIOT Act. Let me be clear: I do not believe that we should repeal the PATRIOT Act. However, I do believe that we should amend several of its most troubling provisions. Law enforcement must have all the necessary tools to combat terrorism, but we must also be careful to protect the civil liberties of Americans. I believe we can be both safe and free.

Today, I, Senator CRAIG, and several of our Republican and Democratic colleagues in the Senate introduced the Security and Freedom Ensured Act of 2003. The SAFE Act is a narrowly-tailored bipartisan bill that would amend the most problematic provisions of the PATRIOT Act, those that grant broad powers to the FBI to monitor Americans with inadequate judicial oversight. The bill would impose reasonable limits on law enforcement's authority without impeding their ability to investigate and prevent terrorism. It would not amend pre-PATRIOT Act law in anyway. The SAFE Act is supported by a broad coalition from across the political spectrum, including the American Civil Liberties Union and the American Conservative Union.

The SAFE Act would:

Reinstate the pre-PATRIOT Act standard for seizing business records. In order to obtain a subpoena, the FBI would have to demonstrate that it has reason to believe that the person to whom the records relate is a suspected terrorist or spy. The SAFE Act retains the expansion of the business record provision to include all business records, including library records, rather than just the four types of records—hotel, car rental, storage facility and common carrier—covered before the PATRIOT Act.

Authorize a court to issue a delayed notification warrant where notice of the warrant would endanger the life or physical safety of an individual, result in flight from prosecution, or result in the destruction of or tampering with the evidence sought under the warrant. It would require notification of a covert search within seven days, rather than an undefined ''reasonable period.'' It would authorize unlimited additional 7-day delays if the court found that notice of the warrant would continue to endanger the life or physical safety of an individual, result in flight from prosecution, or result in the destruction of or tampering with the evidence sought under the warrant.

Limit ''John Doe'' roving wiretaps by requiring the warrant to identify either the target of the wiretap or the place to be wiretapped. To protect innocent people from Government surveillance, it would also require that surveillance be conducted only when the suspect is present at the place to be wiretapped.

Sunset several of the PATRIOT Act's most controversial surveillance provisions on December 31, 2005. Many of PATRIOT's surveillance provisions already sunset on December 31, 2005. The SAFE Act would simply give Congress an opportunity to assess the effectiveness of several additional controversial provisions before deciding whether to reauthorize them.

Under the SAFE Act, the FBI would still have broad authority to combat terrorism. For example, consider the following hypotheticals:

The FBI would like to search the travel records of a suspected terrorist to help determine if he attended a meeting with other extremists. The FBI has reason to believe the records are related to a suspected terrorist, so the SAFE Act would authorize the issuance of a subpoena.

The FBI suspects that an individual affiliated with an extremist organization is planning a terrorist attack. The FBI would like to search the suspect's computer drive to learn more about the plot without tipping off the suspect and his co-conspirators. The SAFE Act would permit the issuance of a ''sneak and peek'' warrant, and permit the FBI to delay notice of the warrant for as long as it would continue to endanger the life or physical safety of an individual, result in flight from prosecution, or result in the destruction of or tampering with the evidence sought under the warrant.

At the same time, the SAFE Act would protect innocent Americans from unchecked Government surveillance. For example:

The FBI is investigating suspected members of a terrorist cell and would like to subpoena the records of a library and a bookstore that they frequent. Currently, the FBI could subpoena all of the records of the library and bookstore, including the records of countless innocent Americans, by certifying they are sought for a terrorism investigation, the exceedingly low standard created by the PATRIOT Act. The SAFE Act would permit the FBI to obtain the records related to the suspected terrorists, but not records related to innocent Americans who are not suspected terrorists.

The FBI is tracking a suspected terrorist who is using public phones at local restaurants to do business. The PATRIOT Act would permit the issuance of a roving wiretap that would apply to any phone the suspect uses. Under the PATRIOT Act, the FBI could monitor the conversations not just of the suspect, but of innocent patrons of these restaurants. The SAFE Act would also permit the issuance of a roving wiretap that would apply to any phone the suspect uses, but would only permit the FBI to gather intelligence when they ascertain that the suspect is using a phone.

The Justice Department has argued that amending the PATRIOT Act would handcuff law enforcement and make it very difficult to combat terrorism. Nothing could be further from the truth. It is possible to combat terrorism and protect our liberties. The SAFE Act demonstrates that. I urge my colleagues to support it.

SUBMITTED RESOLUTIONS

SENATE RESOLUTION 238—AUTHORIZING REGULATIONS RELATING TO THE USE OF OFFICIAL EQUIPMENT

Mr. LOTT (for himself and Mr. DODD) submitted the following resolution; which was considered and agreed to:

S. RES. 238

Resolved, That (a) the Committee on Rules and Administration of the Senate may issue regulations to authorize a Senator or officer or employee of the Senate to use official equipment for purposes incidental to the conduct of their official duties.

(b) Any use under subsection (a) shall be subject to such terms and conditions as set forth in the regulations.

SENATE CONCURRENT RESOLUTION 71—PROVIDING FOR A CONDITIONAL ADJOURNMENT OR RECESS OF THE SENATE

Mr. FRIST submitted the following concurrent resolution; which was considered and agreed to:

Resolved by the Senate (the House of Representatives concurring), that when the Senate recesses or adjourns at the close of business on Friday, October 3, 2003, on a motion offered pursuant to this concurrent resolution by its Minority Leader or his designee, it stand recessed or adjourned until Tuesday, October 14, 2003, at a time to be specified by the Majority Leader or his designee in the motion to recess or adjourn, or until noon on the second day after Members are notifed to reassemble pursuant to section 2 of this concurrent resolution, whichever occurs first.

SEC. 2. The Majority Leader of the Senate after consultation with the Minority Leader of the Senate, shall notify the Members of the Senate to reassemble whenever, in his opinion, the public interest shall warrant it.

AMENDMENTS SUBMITTED AND PROPOSED

SA 1800. Mr. SPECTER submitted an amendment intended to be proposed by him to the bill S. 1689, making emergency supplemental appropriations for Iraq and Afghanistan security and reconstruction for the fiscal year ending September 30, 2004, and for other purposes; which was ordered to lie on the table.

SA 1801. Mr. SMITH submitted an amendment intended to be proposed by him to the bill S. 1585, making appropriations for the Departments of Commerce, Justice, and State, the Judiciary, and related agencies for the fiscal year ending September 30, 2004, and for other purposes; which was ordered to lie on the table.

SA 1802. Mr. COLEMAN (for himself, Mr. DAYTON, Mr. STEVENS, Mr. DORGAN, Mr. KENNEDY, Mr. JOHNSON, Mr. CORZINE, Ms. COLLINS, Mr. GRAHAM of South Carolina, Mr. CONRAD, Mr. SUNUNU, Mr. ALLEN, Mr. BYRD, Mr. PRYOR, Mrs. BOXER, Mr. BUNNING, Mr. LEAHY, and Mr. NELSON of Florida) proposed an amendment to the bill S. 1689, making emergency supplemental appropriations for Iraq and Afghanistan security and reconstruction for the fiscal year ending September 30, 2004, and for other purposes.

SA 1803. Mr. LEAHY (for himself and Mr. DASCHLE) proposed an amendment to the bill S. 1689, supra.

SA 1804. Mr. DAYTON submitted an amendment intended to be proposed by him to the bill S. 1689, supra; which was ordered to lie on the table.

SA 1805. Mr. GRAHAM of South Carolina submitted an amendment intended to be proposed by him to the bill S. 1689, supra; which was ordered to lie on the table.

SA 1806. Mr. GRAHAM of South Carolina submitted an amendment intended to be proposed by him to the bill S. 1689, supra; which was ordered to lie on the table.

SA 1807. Mr. CHAFEE (for himself and Mr. LEAHY) submitted an amendment intended to be proposed by him to the bill S. 1689, supra; which was ordered to lie on the table.

SA 1808. Mr. VOINOVICH (for himself and Mr. LOTT) submitted an amendment intended to be proposed by him to the bill S. 1689, supra.

SA 1809. Ms. MIKULSKI submitted an amendment intended to be proposed by her to the bill S. 1689, supra; which was ordered to lie on the table.

SA 1810. Ms. MIKULSKI submitted an amendment intended to be proposed by her to the bill S. 1689, supra; which was ordered to lie on the table.

SA 1811. Mr. CORZINE submitted an amendment intended to be proposed by him to the bill S. 1689, supra; which was ordered to lie on the table.

SA 1812. Mr. REED (for himself, Mr. BAYH, and Mr. KENNEDY) submitted an amendment intended to be proposed by him to the bill S. 1689, supra.

SA 1813. Mr. KENNEDY (for himself, Mr. KERRY, and Mr. GREGG) submitted an amendment intended to be proposed by him to the bill S. 1689, supra; which was ordered to lie on the table.

SA 1814. Mr. LEAHY submitted an amendment intended to be proposed by him to the bill S. 1689, supra; which was ordered to lie on the table.

SA 1815. Mr. BAYH (for himself and Mr. NELSON of Nebraska) submitted an amendment intended to be proposed by him to the bill S. 1689, supra; which was ordered to lie on the table.

SA 1816. Mr. DASCHLE (for himself, Mr. GRAHAM of South Carolina, Mr. LEAHY, Mr. STEVENS, Mr. BOND, Mr. BURNS, Mr. WARNER, Mrs. CLINTON, Mr. DEWINE, Mr. CHAMBLISS, Mr. HAGEL, Mr. REID, and Mr. ALLEN) submitted an amendment intended to be proposed by him to the bill S. 1689, supra.

SA 1817. Mr. DODD (for himself and Mr. CORZINE) proposed an amendment to the bill S. 1689, supra.

SA 1818. Mr. BYRD (for himself, Mr. KENNEDY, and Mr. LEAHY) proposed an amendment to the bill S. 1689, supra.

SA 1819. Mr. BYRD (for himself and Mr. DURBIN) submitted an amendment intended to be proposed by him to the bill S. 1689, supra.

SA 1820. Ms. COLLINS (for herself, Mr. WYDEN, Mr. ENZI, Mr. LIEBERMAN, Mr. LAUTENBERG, Mrs. FEINSTEIN, Mr. AKAKA, Mrs. CLINTON, Mr. BYRD, Mr. MCCAIN, and Mr. LEVIN) proposed an amendment to the bill S. 1689, supra.

SA 1821. Mr. STEVENS proposed an amendment to the bill S. 1689, supra.

SA 1822. Mr. REID (for Mrs. MURRAY (for herself and Mr. DURBIN)) proposed an amendment to the bill S. 1689, supra.

SA 1823. Mr. REID (for Ms. STABENOW (for herself, Mr. DURBIN, Mrs. BOXER, Mr. JOHNSON, and Mr. SCHUMER)) proposed an amendment to the bill S. 1689, supra.

SA 1824. Mr. FRIST (for Ms. SNOWE (for herself, Mr. FRIST, Mr. DASCHLE, Mr. GREGG, Mr. KENNEDY, Mr. JEFFORDS, Mr. ENZI, Mr. DODD, Mr. DEWINE, Mr. HARKIN, Ms. COLLINS, Mrs. MURRAY, Mr. HAGEL, Ms. CANTWELL, Mr. HATCH, Mr. LAUTENBERG, Mr. LUGAR, and Mr. KERRY)) proposed an amendment to the bill S. 1053, to prohibit discrimination on the basis of genetic information with respect to health insurance and employment.

TEXT OF AMENDMENTS

SA 1800. Mr. SPECTER submitted an amendment intended to be proposed by him to the bill S. 1689, making emergency supplemental appropriations for Iraq and Afghanistan security and reconstruction for the fiscal year ending

September 30, 2004, and for other purposes; which was ordered to lie on the table; as follows:

On page 22, between lines 12 and 13, insert the following:

SEC. 316. (a) In addition to other purposes for which funds in the Iraq Freedom Fund are available, such funds shall also be available for reimbursing a member of the Armed Forces for the cost of air fare incurred by the member for any travel by the member within the United States that is commenced during fiscal year 2003 or fiscal year 2004 and is completed during either such fiscal year while the member is on rest and recuperation leave from deployment overseas in support of Operation Iraqi Freedom and Operation Enduring Freedom, but only for one round trip by air between two locations within the United States.

(b) It is the sense of Congress that the commercial airline industry should, to the maximum extent practicable, charge members of the Armed Forces on rest and recuperation leave as described in subsection (a) and their families specially discounted, lowest available fares for air travel in connection with such leave and that any restrictions and limitations imposed by the airlines in connection with the air fares charged for such travel should be minimal.

SA 1801. Mr. SMITH submitted an amendment intended to be proposed by him to the bill S. 1585, making appropriations for Departments of Commerce, Justice, and State, the Judiciary, and related agencies for the fiscal year ending September 30, 2004, and for other purposes; which was ordered to lie on the table; as follows:

On page 38, between lines 20 and 21, insert the following new section:

SEC. 2313. (a) Congress makes the following findings:

(1) The United States armed forces entered Iraq on March 19, 2003 to liberate the Iraqi people from Saddam Hussein and remove a threat to global security and stability.

(2) Having liberated the country from its prior regime, the United States and its coalition partners now have the temporary responsibility of rebuilding Iraq's infrastructure and economy until a new Iraqi government can take over this work.

(3) During the long reign of Saddam Hussein many public and private entities extended billions of dollars in loans to his regime despite his record of aggression and barbarism. Such debts must not be permitted to burden the new Iraq that is now emerging or be a factor in shaping current efforts to rebuild Iraq.

(4) Pursuant to basic principles of bankruptcy law, such prior creditors are no longer entitled to repayment of their loans. These creditors extended money to a debtor regime that no longer exists and is the functional equivalent of a bankrupt estate.

(5) Pursuant to basic principles of equity, the people of Iraq must not be burdened with the obligation of repaying loans that funded the very regime that oppressed them.

(6) Entities which extended financial support to the regime of Saddam Hussein after his record of military aggression and war crimes became public did so contrary to international norms of decency and United States foreign policy. Those who thus aided and abetted Saddam Hussein were accessories before the fact to the atrocities committed by Saddam Hussein and should not be rewarded with repayment of their loans.

(7) United Nations Security Council Resolution 1483, which passed unanimously on May 22, 2003, specifically provides that all proceeds from the sale of Iraqi oil be deposited into a United States-controlled development fund for the reconstruction of Iraq.

(8) Pursuant to United Nations Security Council Resolution 1483, the United States has an obligation to use revenue generated by the sale of Iraqi oil to fund the reconstruction of Iraq.

(9) Pursuant to basic principles of bankruptcy law, the United States is entitled to priority repayment of any loans the United States now extends to Iraq. Such loans are the equivalent of debtor-in-possession financing because the loans are being extended to an already distressed entity in order to help that entity rebuild. Loans made under such circumstances are traditionally repaid before any previously extended loans.

(10) Pursuant to basic principles of secured transactions, the United States is entitled to priority repayment of any loans it now extends to Iraq. The United States is currently in control of Iraq and its assets and is therefore a secured creditor, a creditor in physical possession of collateral, entitled to priority repayment.

(11) Pursuant to the norms of international financial aid, the United States is entitled to priority repayment of any loans it extends to Iraq. The role of the United States in Iraq is analogous to the role of the International Monetary Fund and the World Bank in extending credit to a distressed country to help it achieve solvency. Such International Monetary Fund and World Bank loans are repaid prior to any pre-existing loans.

(12) Extending loans instead of outright grants to Iraq will not lend credibility to any assertion that the United States liberated Iraq merely to gain control of its oil assets. The United States seeks to use Iraqi oil revenues for one purpose only, namely, to rebuild Iraq for the good of the Iraqi people. The United States will not use these assets to pay for its own military expenses in Iraq (which far exceed the cost of reconstruction). Nor will the United States take any Iraqi assets with it when it leaves the country.

(13) Extending loans instead of outright grants to Iraq will not make it more difficult for the United States to secure participation from other potential donor nations in the rebuilding of Iraq. If the United States provides all reconstruction funds in advance in the form of grants, there will be little need or incentive for other donor nations to contribute funds. If the United States provides only loans, however, it leaves open the question of whether and how much all donor nations, including the United States, should provide to Iraq in the form of grants.

(14) The United States does not typically fund the development projects of other nations with outright grants. When Israel undertakes a major new infrastructure or development project, for example, the United States assists Israel by providing loan guarantees. Such loan guarantees have no cost to United States taxpayers if Israel repays its loans. Iraq should be treated no better than allies of the United States such as Israel.

(b) Of the amount appropriated in title II under the subheading ''IRAQ RELIEF AND RECONSTRUCTION FUND'' under the heading ''OTHER BILATERAL ECONOMIC ASSISTANCE FUNDS APPROPRIATED TO THE PRESIDENT'', $20,304,000,000 shall be used as loans to, or used to guarantee loans entered into by, the Development Fund for Iraq acting on behalf of the people of Iraq. The Development Fund for Iraq shall act in consultation with the Governing Council in Iraq, or any successor governing authority in Iraq, and shall, as provided in United Nations Security Council Resolution 1483, be subject to audits supervised by the International Advisory and Monitoring Board of the Development Fund for Iraq. The members of such Board shall include duly qualified representatives of the United Nations Secretary General, of the Managing Director of the International Monetary Fund, of the Director General of the Arab Fund for Social and Economic Development, and the President of the World Bank.

SA 1802. Mr. COLEMAN (for himself, Mr. DAYTON, Mr. STEVENS, Mr. DORGAN, Mr. KENNEDY, Mr. JOHNSON, Mr. CORZINE, Ms. COLLINS, Mr. GRAHAM of South Carolina, Mr. CONRAD, Mr. SUNUNU, Mr. ALLEN, Mr. BYRD, Mr. PRYOR, Mrs. BOXER, Mr. BUNNING, Mr. LEAHY, and Mr. NELSON of Florida) proposed an amendment to the bill S. 1689, making emergency supplemental appropriations for Iraq and Afghanistan security and reconstruction for the fiscal year ending September 30, 2004, and for other purposes; as follows:

On page 54, between lines 7 and 8, insert the following new section:

SEC. 215. Of the amount provided for the National Marine Fisheries Service in this title under the subheading ''OPERATIONS, RESEARCH, AND FACILITIES'' under the heading ''NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION'', $20,556,000 shall be available for Columbia River hatchery operations for Pacific Salmon as follows:

(1) $13,587,000 for hatcheries and facilities;

(2) $2,052,000 for monitoring, evaluation, and reform; and

(3) $4,917,000 for other facilities.

SA. 1803. Mr. LEAHY (for himself and Mr. DASCHLE) proposed an amendment to the bill S. 1689, making emergency supplemental appropriations for Iraq and Afghanistan security and reconstruction for the fiscal year ending September 30, 2004, and for other purposes; as follows:

On page 25, line 21, before the colon, insert the following:

: Provided further, That beginning not later than 60 days after enactment of this Act, the Administrator of the Coalition Provisional Authority shall report to and be under the direct authority and foreign policy guidance of the Secretary of State

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SA 1804. Mr. DAYTON submitted an amendment intended to be proposed by him to the bill S. 1689, making emergency supplemental appropriations for Iraq and Afghanistan security and reconstruction for the fiscal year ending September 30, 2004, and for other purposes; which was ordered to lie on the table; as follows:

At the end of title I, insert the following:

SEC. 316. (a) EXPANSION OF REST AND RECUPERATION LEAVE PROGRAM.—The Secretary of Defense shall expand the Central Command Rest and Recuperation Leave program to provide travel and transportation allowances to each member of the Armed Forces participating in the program in order to permit such member to travel at the expense of the United States from an original airport of debarkation to the permanent station or home of such member and back to such airport.

(b) ALLOWANCES AUTHORIZED.—The travel and transportation allowances that may be provided under subsection (a) are the travel and transportation allowances specified in section 404(d) of title 37, United States Code.

(c) CONSTRUCTION WITH OTHER ALLOWANCES.—Travel and transportation allowances provided for travel under subsection

(a) are in addition to any other travel and transportation or other allowances that may be provided for such travel by law.

(d) DEFINITIONS.—In this section:

(1) The term ''Central Command Rest and Recuperation Leave program'' means the Rest and Recuperation Leave program for certain members of the Armed Forces serving in the Iraqi theater of operations in support of Operation Iraqi Freedom as established by the United States Central Command on September 25, 2003.

(2) The term ''original airport of debarkation'' means an airport designated as an airport of debarkation for members of the Armed Forces under the Central Command Rest and Recuperation Leave program as of the establishment of such program on September 25, 2003.

(e) FUNDING.—Amounts appropriated or otherwise made available by chapter 1 of this title under the heading ''IRAQ FREEDOM FUND'' shall be available to carry out this section: *Provided,* That the amount is designated by Congress as an emergency requirement pursuant to section 502 of House Concurrent Resolution 95 (108th Congress), the concurrent resolution on the budget for fiscal year 2004: *Provided further,* That the amount shall be made available only to the extent an official budget request for a specific dollar amount that includes designation of the entire amount of the request as an emergency requirement, as defined in House Concurrent Resolution 95, is transmitted by the President to Congress.

SA 1805. Mr. GRAHAM of South Carolina submitted an amendment intended to be proposed by him to the bill S. 1689, making emergency supplemental appropriations for Iraq and Afghanistan security and reconstruction for the fiscal year ending September 30, 2004, and for other purposes; which was ordered to lie on the table; as follows:

On page 38, between lines 20 and 21, insert the following:

SEC. 2313. (a) Congress finds that—

(1) in a speech delivered to the United Nations on September 23, 2003, President George W. Bush appealed to the international community to take action to make the world a safer and better place;

(2) in that speech, President Bush emphasized the responsibility of the international community to help the people of Iraq rebuild their country into a free and democratic state;

(3) French President Jacques Chirac has proposed a plan for Iraqi self-rule within a period of months;

(4) for a plan for Iraq's future to be appropriate, the provisions of that plan must be consistent with the best interests of the Iraqi people;

(5) the plan proposed by President Chirac would impose premature self-government in Iraq that could threaten peace and stability in that country; and

(6) premature self-government could make the Iraqi state inherently weak and could serve as an invitation for terrorists to sabotage the accomplishments of the United States and United States allies in the region.

(b) It is the sense of Congress that—

(1) arbitrary deadlines should not be set for the dissolution of the Coalition Provisional Authority or the transfer of its authority to an Iraqi governing authority; and

(2) no such dissolution or transfer of authority should occur until the ratification of an Iraqi constitution and the establishment of an elected government in Iraq.

SA 1806. Mr. GRAHAM of South Carolina submitted an amendment intended to be proposed by him to the bill S. 1689, making emergency supplemental appropriations for Iraq and Afghanistan security and reconstruction for the fiscal year ending September 30, 2003, and for other purposes; which was ordered to lie on the table; as follows:

On page 39, between lines 2 and 3, insert the following:

SEC. 3002. (a) Congress finds that—

(1) Israel is a strategic ally of the United States in the Middle East;

(2) Israel recognizes the benefits of a democratic form of government;

(3) the policies and activities of the Government of Iraq under the Saddam Hussein regime contributed to security concerns in the Middle East, especially for Israel;

(4) the Arab Liberation Front was established by Iraqi Baathists, and supported by Saddam Hussein;

(5) the Government of Iraq under the Saddam Hussein regime assisted the Arab Liberation Front in distributing grants to the families of suicide bombers;

(6) the Government of Iraq under the Saddam Hussein regime aided Abu Abass, leader of the Palestinian Liberation Front, who was a mastermind of the hijacking of the Achille Lauro, an Italian cruise ship, and is responsible for the death of an American tourist aboard that ship; and

(7) Saddam Hussein attacked Israel during the 1990-1991 Persian Gulf War by launching 39 Scud missiles into that country and thereby causing multiple casualties.

(b) It is the sense of Congress that Operation Iraqi Freedom promotes the security of Israel and other United States allies.

SA 1807. Mr. CHAFEE (for himself and Mr. LEAHY) submitted an amendment intended to be proposed by him to the bill S. 1689, making emergency supplemental appropriations for Iraq and Afghanistan security and reconstruction for the fiscal year ending September 30, 2004, and for other purposes; which was ordered to lie on the table; as follows:

Beginning on page 29, strike line 13 and all that follows through page 31, line 5, and insert the following:

INTERNATIONAL DISASTER ASSISTANCE AND MILITARY ASSISTANCE

For an additional amount for ''International Disaster Assistance'' for relief, rehabilitation, and reconstruction assistance for Liberia, and for an additional amount for military assistance programs for Liberia for which funds were appropriated by title III of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2003 (division E of Public Law 108–7; 117 Stat. 176), $200,000,000, to remain available until expended, of which $100,000,000 shall be derived by transfer from funds appropriated in this title under the subheading ''IRAQ RELIEF AND RECONSTRUCTION FUND'' under the heading ''OTHER BILATERAL ECONOMIC ASSISTANCE FUNDS APPROPRIATED TO THE PRESIDENT'': *Provided,* That the entire amount made available under this heading is designated by the Congress as an emergency requirement pursuant to section 502 of House Concurrent Resolution 95, 108th Congress, 1st session.

SA 1808. Mr. VOINOVICH (for himself and Mr. LOTT) submitted an amendment intended to be proposed by him to the bill S. 1689, making emergency supplemental appropriations for Iraq and Afghanistan security and reconstruction for the fiscal year ending September 30, 2004, and for other purposes; as follows:

On page 38, between lines 20 and 21, insert the following new section:

SEC. 2313. Not later than 120 days after the date of the enactment of this Act, the President shall submit to Congress a report on the efforts of the Government of the United States to increase the resources contributed by foreign countries and international organizations to the reconstruction of Iraq and the feasibility of repayment of funds contributed for infrastructure projects in Iraq. The report shall include—

(1) a description of efforts by the Government of the United States to increase the resources contributed by foreign countries and international organizations to the reconstruction of Iraq;

(2) an accounting of the funds contributed to assist in the reconstruction of Iraq, disaggregated by donor;

(3) an assessment of the effect that—

(A) the bilateral debts incurred during the regime of Saddam Hussein have on Iraq's ability to finance essential programs to rebuild infrastructure and restore critical public services, including health care and education, in Iraq; and

(B) forgiveness of such debts would have on the reconstruction and long-term prosperity in Iraq;

(4) a description of any commitment by a foreign country or international organization to forgive any part of a debt owed by Iraq if such debt was incurred during the regime of Saddam Hussein; and

(5) an assessment of the feasibility of repayment by Iraq—

(A) of bilateral debts incurred during the regime of Saddam Hussein; and

(B) of the funds contributed by the United States to finance infrastructure projects in Iraq.

SA 1809. Ms. MIKULSKI submitted an amendment intended to be proposed by her to the bill S. 1689, making emergency supplemental appropriations for Iraq and Afghanistan security and reconstruction for the fiscal year ending September 30, 2004, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ___. The amount appropriated by title ___ of this Act under the heading ''RESEARCH, DEVELOPMENT, TEST, AND EVALUATION, ARMY'' is hereby increased by $30,000,000, with the amount of the increase to be available for the Walter Reed Army Institute of Research (WRAIR) for malaria research and vaccine development.

SA 1810. Ms. MIKULSKI submitted an amendment intended to be proposed by her to the bill S. 1689, making emergency supplemental appropriations for Iraq and Afghanistan security and reconstruction for the fiscal year ending September 30, 2004, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ___. The amount appropriated by title ___ of this Act under the heading ''OPERATION AND MAINTENANCE, NAVY'' is hereby increased by $27,300,000, with the amount of the increase to be available for recovery, repair, and restoration with respect to storm damage at the United States Naval Academy, Maryland, relating to Hurricane Isabel.

SA 1811. Mr. CORZINE submitted an amendment intended to be proposed by him to the bill S. 1689, making emergency supplemental appropriations for Iraq and Afghanistan security and reconstruction for the fiscal year ending September 30, 2004, and for other purposes; which was ordered to lie on the table; as follows:

On page 22, between lines 12 and 13, insert the following:

SEC. 316. (a) Section 12731(a)(1) of title 10, United States Code, is amended by striking ''at least 60 years of age'' and inserting ''at least 55 years of age''.

(b) With respect to any provision of law, or of any policy, regulation, or directive of the executive branch, that refers to a member or former member of the uniformed services as being eligible for, or entitled to, retired pay under chapter 1223 of title 10, United States Code, but for the fact that the member or former member is under 60 years of age, such provision shall be carried out with respect to that member or former member by substituting for the reference to being 60 years of age a reference to the age in effect for qualification for such retired pay under section 12731(a) of title 10, United States Code, as amended by subsection (a).

(c) The amendment made by subsection (a) shall take effect on the first day of the first month beginning on or after the date of the enactment of this Act and shall apply to retired pay payable for that month and subsequent months.

SA 1812. Mr. REED (for himself, Mr. BAYH, and Mr. KENNEDY) submitted an amendment intended to be proposed by him to the bill S. 1689, making emergency supplemental appropriations for Iraq and Afghanistan security and reconstruction for the fiscal year ending September 30, 2004, and for other purposes; as follows:

On page 22, between lines 12 and 13, insert the following:

SEC. 316. (a) The amount appropriated under chapter 1 of this title for the Army for procurement under the heading ''OTHER PROCUREMENT, ARMY'', is hereby increased by $191,100,000. The additional amount shall be available for the procurement of 800 High Mobility Multipurpose Wheeled Vehicles in addition to the number of such vehicles for which funds are provided within the amount specified under such heading.

(b) The Secretary of the Army shall reevaluate the requirements of the Army for armored security vehicles and the options available to the Army for procuring armored security vehicles to meet the validated requirements.

(c) The amount appropriated for the Iraq Freedom Fund under chapter 1 of this title is hereby reduced by $191,100,000.

SA 1813. Mr. KENNEDY (for himself, Mr. KERRY, and Mr. GREGG) submitted an amendment intended to be proposed by him to the bill S. 1689, making emergency supplemental appropriations for Iraq and Afghanistan security and reconstruction for the fiscal year ending September 30, 2004, and for other purposes; which was ordered to lie on the table; as follows:

On page 22, between lines 12 and 13, insert the following:

SEC. 316. In addition to other purposes for which funds in the Iraq Freedom Fund are available, such funds shall also be available for reimbursing members of the Armed Forces who, as determined by the Secretary of Defense, at any time during fiscal year 2003 or 2004 purchased nonrefundable airline tickets for travel during rest and recuperation leave between the theater of operations for Operation Iraqi Freedom or Operation Enduring Freedom and the United States on the basis of guidance provided to them under command authority regarding travel during rest and recuperation leave, if the members have not commenced the travel by reason of modified guidance provided to them under command authority.

SA 1814. Mr. LEAHY submitted an amendment intended to be proposed by him to the bill S. 1689, making emergency supplemental appropriations for Iraq and Afghanistan security and reconstruction for the fiscal year ending September 30, 2004, and for other purposes; which was ordered to lie on the table; as follows:

On page 25, line 21, before the colon, insert the following:

: *Provided further,* That none of the funds appropriated under this heading may be allocated for any capital project, including construction of a prison, hospital, housing community, railroad, or government building, until the Coalition Provisional Authority submits a report to the Committees on Appropriations describing in detail the estimated costs (including the costs of consultants, design, materials, shipping, and labor) on which the request for funds for such project is based: *Provided further,* That in order to control costs, to the maximum extent practicable Iraqis with the necessary qualifications shall be consulted and utilized in the design and implementation of programs, projects, and activities funded under this heading

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SA 1815. Mr. BAYH (for himself and Mr. NELSON of Nebraska) submitted an amendment intended to be proposed by him to the bill S. 1689, making emergency supplemental appropriations for Iraq and Afghanistan security and reconstruction for the fiscal year ending September 30, 2004, and for other purposes; which was ordered to lie on the table; as follows:

On page 38, between lines 20 and 21, insert the following new section:

SEC. 2313. (a) The funds appropriated in title II under the subheading ''IRAQ RELIEF AND RECONSTRUCTION FUND'' under the heading ''OTHER BILATERAL ECONOMIC ASSISTANCE FUNDS APPROPRIATED TO THE PRESIDENT'', other than such funds allocated for security, may not be obligated or expended before each country that is owed bilateral debt incurred by the regime of Saddam Hussein forgives such debt.

(b) On the date that is 180 days after the date of the enactment of this Act, any funds referred to in subsection (a) that have not been obligated or expended by reason of the limitation in such subsection shall be transferred to an account to be available to the President for use as a loan to the Governing Council in Iraq, as described in subsection (c).

(c)(1) The President is authorized to use any amount transferred under subsection (b) to make loans to the Governing Council in Iraq. Any such loan shall be made under a loan agreement that—

(A) is fairly negotiated between the Government of the United States and the Governing Council in Iraq; and

(B) includes a provision that requires any debt incurred by the regime of Saddam Hussein to be subordinated to the debt incurred through the receiving of a loan under this subsection.

(2) The purposes for which the proceeds of loans made under paragraph (1) are used may include reconstruction in Iraq.

(d) In this section, the term ''Governing Council in Iraq'' means the Governing Council established in Iraq on July 13, 2003, or any successor governing authority in Iraq.

SA 1816. Mr. DASCHLE (for himself, Mr. GRAHAM of South Carolina, Mr. LEAHY, Mr. STEVENS, Mr. BOND, Mr. BURNS, Mr. WARNER, Mrs. CLINTON, Mr. DEWINE, Mr. CHAMBLISS, Mr. HAGEL, Mr. REID, and Mr. ALLEN) submitted an amendment intended to be proposed by him to the bill S. 1689, making emergency supplemental appropriations for Iraq and Afghanistan security and reconstruction for the fiscal year ending September 30, 2004, and for other purposes; as follows:

At the appropriate place insert the following:

SEC. 316. (a) Section 1074a of title 10, United States Code, is amended by adding at the end the following new subsection:

''(f)(1) At any time after the Secretary concerned notifies members of the Ready Reserve that the members are to be called or ordered to active duty, the administering Secretaries may provide to each such member any medical and dental screening and care that is necessary to ensure that the member meets the applicable medical and dental standards for deployment.

''(2) The Secretary concerned shall promptly transmit to each member of the Ready Reserve eligible for screening and care under this subsection a notification of eligibility for such screening and care.

''(3) A member provided medical or dental screening or care under paragraph (1) may not be charged for the screening or care.

''(4) Screening and care may not be provided under this section after September 30, 2004.''.

(b) The benefits provided under the amendment made by subsection (a) shall be provided only within funds available under this Act.

SEC. 317. (a) Chapter 55 of title 10, United States Code, is amended by inserting after section 1076a the following new section:

''§ 1076b. TRICARE program: coverage for members of the Ready Reserve

''(a) ELIGIBILITY.—Each member of the Selected Reserve of the Ready Reserve and each member of the Individual Ready Reserve described in section 10144(b) of this title is eligible, subject to subsection (h), to enroll in TRICARE and receive benefits under such enrollment for any period that the member—

''(1) is an eligible unemployment compensation recipient; or

''(2) is not eligible for health care benefits under an employer-sponsored health benefits plan.

''(b) TYPES OF COVERAGE.—(1) A member eligible under subsection (a) may enroll for either of the following types of coverage:

''(A) Self alone coverage.

''(B) Self and family coverage.

''(2) An enrollment by a member for self and family covers the member and the dependents of the member who are described in subparagraph (A), (D), or (I) of section 1072(2) of this title.

''(c) OPEN ENROLLMENT PERIODS.—The Secretary of Defense shall provide for at least one open enrollment period each year. During an open enrollment period, a member eligible under subsection (a) may enroll in the

TRICARE program or change or terminate an enrollment in the TRICARE program.

''(d) SCOPE OF CARE.—(1) A member and the dependents of a member enrolled in the TRICARE program under this section shall be entitled to the same benefits under this chapter as a member of the uniformed services on active duty or a dependent of such a member, respectively.

''(2) Section 1074(c) of this title shall apply with respect to a member enrolled in the TRICARE program under this section.

''(e) PREMIUMS.—(1) The Secretary of Defense shall charge premiums for coverage pursuant to enrollments under this section. The Secretary shall prescribe for each of the TRICARE program options a premium for self alone coverage and a premium for self and family coverage.

''(2) The monthly amount of the premium in effect for a month for a type of coverage under this section shall be the amount equal to 28 percent of the total amount determined by the Secretary on an appropriate actuarial basis as being reasonable for the coverage.

''(3) The premiums payable by a member under this subsection may be deducted and withheld from basic pay payable to the member under section 204 of title 37 or from compensation payable to the member under section 206 of such title. The Secretary shall prescribe the requirements and procedures applicable to the payment of premiums by members not entitled to such basic pay or compensation.

''(4) Amounts collected as premiums under this subsection shall be credited to the appropriation available for the Defense Health Program Account under section 1100 of this title, shall be merged with sums in such Account that are available for the fiscal year in which collected, and shall be available under subparagraph (B) of such section for such fiscal year.

''(f) OTHER CHARGES.—A person who receives health care pursuant to an enrollment in a TRICARE program option under this section, including a member who receives such health care, shall be subject to the same deductibles, copayments, and other nonpremium charges for health care as apply under this chapter for health care provided under the same TRICARE program option to dependents described in subparagraph (A), (D), or (I) of section 1072(2) of this title.

''(g) TERMINATION OF ENROLLMENT.—(1) A member enrolled in the TRICARE program under this section may terminate the enrollment only during an open enrollment period provided under subsection (c), except as provided in subsection (h).

''(2) An enrollment of a member for self alone or for self and family under this section shall terminate on the first day of the first month beginning after the date on which the member ceases to be eligible under subsection (a).

''(3) The enrollment of a member under this section may be terminated on the basis of failure to pay the premium charged the member under this section.

''(h) RELATIONSHIP TO TRANSITION TRICARE COVERAGE UPON SEPARATION FROM ACTIVE DUTY.—(1) A member may not enroll in the TRICARE program under this section while entitled to transitional health care under subsection (a) of section 1145 of this title or while authorized to receive health care under subsection (c) of such section.

''(2) A member who enrolls in the TRICARE program under this section within 90 days after the date of the termination of the member's entitlement or eligibility to receive health care under subsection (a) or (c) of section 1145 of this title may terminate the enrollment at any time within one year after the date of the enrollment.

''(i) CERTIFICATION OF NONCOVERAGE BY OTHER HEALTH BENEFITS PLAN.—The Secretary of Defense may require a member to submit any certification that the Secretary considers appropriate to substantiate the member's assertion that the member is not covered for health care benefits under any other health benefits plan.

''(j) ELIGIBLE UNEMPLOYMENT COMPENSATION RECIPIENT DEFINED.—In this section, the term 'eligible unemployment compensation recipient' means, with respect to any month, any individual who is determined eligible for any day of such month for unemployment compensation under State law (as defined in section 205(9) of the Federal-State Extended Unemployment Compensation Act of 1970), including Federal unemployment compensation laws administered through the State.

''(k) REGULATIONS.—The Secretary of Defense, in consultation with the other administering Secretaries, shall prescribe regulations for the administration of this section.

''(l) TERMINATION OF AUTHORITY.—An enrollment in TRICARE under this section may not continue after September 30, 2004.''.

(b) The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 1076a the following new item:

''1076b. TRICARE program: coverage for members of the Ready Reserve.''.

(c) The benefits provided under section 1076b of title 10, United States Code (as added by subsection (a)), shall be provided only within funds available under this Act.

SEC. 318. (a)(1) Chapter 55 of title 10, United States Code, is amended by inserting after section 1078a the following new section:

''§ 1078b. Continuation of non-TRICARE health benefits plan coverage for certain Reserves called or ordered to active duty and their dependents

''(a) PAYMENT OF PREMIUMS.—The Secretary concerned shall pay the applicable premium to continue in force any qualified health benefits plan coverage for an eligible reserve component member for the benefits coverage continuation period if timely elected by the member in accordance with regulations prescribed under subsection (j).

''(b) ELIGIBLE MEMBER.—A member of a reserve component is eligible for payment of the applicable premium for continuation of qualified health benefits plan coverage under subsection (a) while serving on active duty pursuant to a call or order issued under a provision of law referred to in section 101(a)(13)(B) of this title during a war or national emergency declared by the President or Congress.

''(c) QUALIFIED HEALTH BENEFITS PLAN COVERAGE.—For the purposes of this section, health benefits plan coverage for a member called or ordered to active duty is qualified health benefits plan coverage if—

''(1) the coverage was in force on the date on which the Secretary notified the member that issuance of the call or order was pending or, if no such notification was provided, the date of the call or order;

''(2) on such date, the coverage applied to the member and dependents of the member described in subparagraph (A), (D), or (I) of section 1072(2) of this title; and

''(3) the coverage has not lapsed.

''(d) APPLICABLE PREMIUM.—The applicable premium payable under this section for continuation of health benefits plan coverage in the case of a member is the amount of the premium payable by the member for the coverage of the member and dependents.

''(e) MAXIMUM AMOUNT.—The total amount that the Department of Defense may pay for the applicable premium of a health benefits plan for a member under this section in a fiscal year may not exceed the amount determined by multiplying—

''(1) the sum of one plus the number of the member's dependents covered by the health benefits plan, by

''(2) the per capita cost of providing TRICARE coverage and benefits for dependents under this chapter for such fiscal year, as determined by the Secretary of Defense.

''(f) BENEFITS COVERAGE CONTINUATION PERIOD.—The benefits coverage continuation period under this section for qualified health benefits plan coverage in the case of a member called or ordered to active duty is the period that—

''(1) begins on the date of the call or order; and

''(2) ends on the earlier of—

''(A) the date on which the member's eligibility for transitional health care under section 1145(a) of this title terminates under paragraph (3) of such section;

''(B) the date on which the member elects to terminate the continued qualified health benefits plan coverage of the dependents of the member; or

''(C) September 30, 2004.

''(g) EXTENSION OF PERIOD OF COBRA COVERAGE.—Notwithstanding any other provision of law—

''(1) any period of coverage under a COBRA continuation provision (as defined in section 9832(d)(1) of the Internal Revenue Code of 1986) for a member under this section shall be deemed to be equal to the benefits coverage continuation period for such member under this section; and

''(2) with respect to the election of any period of coverage under a COBRA continuation provision (as so defined), rules similar to the rules under section 4980B(f)(5)(C) of such Code shall apply.

''(h) NONDUPLICATION OF BENEFITS.—A dependent of a member who is eligible for benefits under qualified health benefits plan coverage paid on behalf of a member by the Secretary concerned under this section is not eligible for benefits under the TRICARE program during a period of the coverage for which so paid.

''(i) REVOCABILITY OF ELECTION.—A member who makes an election under subsection (a) may revoke the election. Upon such a revocation, the member's dependents shall become eligible for benefits under the TRICARE program as provided for under this chapter.

''(j) REGULATIONS.—The Secretary of Defense shall prescribe regulations for carrying out this section. The regulations shall include such requirements for making an election of payment of applicable premiums as the Secretary considers appropriate.''.

(2) The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 1078a the following new item:

''1078b. Continuation of non-TRICARE health benefits plan coverage for certain Reserves called or ordered to active duty and their dependents.''.

(b) Section 1078b of title 10, United States Code (as added by subsection (a)), shall apply with respect to calls or orders of members of reserve components of the Armed Forces to active duty as described in subsection (b) of such section, that are issued by the Secretary of a military department before, on, or after the date of the enactment of this Act, but only with respect to qualified health benefits plan coverage (as described in subsection (c) of such section) that is in effect on or after the date of the enactment of this Act.

(c) The benefits provided under section 1078b of title 10, United States Code (as added by subsection (a)), shall be provided only within funds available under this Act.

SEC. 319. (a) Section 1074 of title 10, United States Code, is amended by adding at the end the following new subsection:

''(d)(1) For the purposes of this chapter, a member of a reserve component of the armed forces who is issued a delayed-effective-date active-duty order, or is covered by such an order, shall be treated as being on active duty for a period of more than 30 days beginning on the later of the date that is—

''(A) the date of the issuance of such order; or

''(B) 90 days before date on which the period of active duty is to commence under such order for that member.

''(2) In this subsection, the term 'delayed-effective-date active-duty order' means an order to active duty for a period of more than 30 days in support of a contingency operation under a provision of law referred to in section 101(a)(13)(B) of this title that provides for active-duty service to begin under such order on a date after the date of the issuance of the order.

''(3) This section shall cease to be effective on September 30, 2004.''.

(b) The benefits provided under the amendment made by subsection (a) shall be provided only within funds available under this Act.

SEC. 320. (a) Subject to subsection (b), during the period beginning on the date of the enactment of this Act and ending on September 30, 2004, section 1145(a) of title 10, United States Code, shall be administered by substituting for paragraph (3) the following:

''(3) Transitional health care for a member under subsection (a) shall be available for 180 days beginning on the date on which the member is separated from active duty.''.

(b)(1) Subsection (a) shall apply with respect to separations from active duty that take effect on or after the date of the enactment of this Act.

(2) Beginning on October 1, 2004, the period for which a member is provided transitional health care benefits under section 1145(a) of title 10, United States Code, shall be adjusted as necessary to comply with the limits provided under paragraph (3) of such section.

(c) The benefits provided under this section shall be provided only within funds available under this Act.

SA 1817. Mr. DODD (for himself and Mr. CORZINE) proposed an amendment to the bill S. 1689, making emergency supplemental appropriations for Iraq and Afghanistan security and reconstruction for the fiscal year ending September 30, 2004, and for other purposes; as follows:

On page 2, line 20, strike ''$24,946,464,000:'' and insert ''$25,268,464,000, of which $322,000,000 shall be available to provide safety equipment through the Rapid Fielding Initiative and the Iraqi Battlefield Clearance program:''.

On page 25, line 10, strike ''$5,136,000,000'' and insert ''$4,884,000,000''.

On page 25, line 16, strike ''$353,000,000'' and insert ''$283,000,000''.

SA 1818. Mr. BYRD (for himself, Mr. KENNEDY, and Mr. LEAHY) proposed an amendment to the bill S. 1689, making emergency supplemental appropriations for Iraq and Afghanistan security and reconstruction for the fiscal year ending September 30, 2004, and for other purposes; as follows:

On page 38, between lines 20 and 21, insert the following:

SEC. 2313. (a)(1) Of the funds appropriated under chapter 2 of this title under the heading ''IRAQ RELIEF AND RECONSTRUCTION FUND''—

(A) not more than $5,000,000,000 may be obligated or expended before April 1, 2004; and

(B) the excess of the total amount so appropriated over $5,000,000,000 may not be obligated or expended after April 1, 2004, unless—

(i) the President submits to Congress in writing the certifications described in subsection (b); and

(ii) Congress enacts an appropriations law (other than this Act) that authorizes the obligation and expenditure of such funds.

(2) Paragraph (1) does not apply to the $5,136,000,000 provided under the heading ''IRAQ RELIEF AND RECONSTRUCTION FUND'' for security, including public safety requirements, national security, and justice (which includes funds for Iraqi border enforcement, enhanced security communications, and the establishment of Iraqi national security forces and the Iraq Defense Corps).

(b) The certifications referred to in subsection (a)(1)(A) are as follows:

(1) A certification that the United Nations Security Council has adopted a resolution (after the adoption of United Nations Security Council Resolution 1483 of May 22, 2003, and after the adoption of United Nations Security Council Resolution 1500 of August 14, 2003) that authorizes a multinational force under United States leadership for post-Saddam Hussein Iraq, provides for a central role for the United Nations in the political and economic development and reconstruction of Iraq, and will result in substantially increased contributions of military forces and amounts of money by other countries to assist in the restoration of security in Iraq and the reconstruction of Iraq.

(2) A certification that the United States reconstruction activities in Iraq are being successfully implemented in accordance with a detailed plan (which includes fixed timetables and costs), and with a significant commitment of financial assistance from other countries, for—

(A) the establishment of economic and political stability in Iraq, including prompt restoration of basic services, such as water and electricity services;

(B) the adoption of a democratic constitution in Iraq;

(C) the holding of local and national elections in Iraq;

(D) the establishment of a democratically elected government in Iraq that has broad public support; and

(E) the establishment of Iraqi security and armed forces that are fully trained and appropriately equipped and are able to defend Iraq and carry out other security duties without the involvement of the United States Armed Forces.

(c) Not later than March 1, 2004, the President shall submit to Congress a report on United States and foreign country involvement in Iraq that includes the following information:

(1) The number of military personnel from other countries that, as of such date, are supporting Operation Iraqi Freedom, together with an estimate of the number of such personnel to be in place in Iraq for that purpose on May 1, 2004.

(2) The total amounts of financial donations pledged and paid by other countries for the reconstruction of Iraq.

(3) A description of the economic, political, and military situation in Iraq, including the number, type, and location of attacks on Coalition, United Nations and Iraqi military, public safety, and civilian personnel in the 60 days preceding the date of the report.

(4) A description of the measures taken to protect United States military personnel serving in Iraq.

(5) A detailed plan, containing fixed timetables and costs, for establishing civil, economic, and political security in Iraq, including restoration of basic services, such as water and electricity services.

(6) An estimate of the total number of United States and foreign military personnel that are necessary in the short term and the long term to bring to Iraq stability and security for its reconstruction, including the prevention of sabotage that impedes the reconstruction efforts.

(7) An estimate of the duration of the United States military presence in Iraq and the levels of United States military personnel strength that will be necessary for that presence for each of the future 6-month periods, together with a rotation plan for combat divisions, combat support units. and combat service support units.

(8) An estimate of the total cost to the United States of the military presence in Iraq that includes—

(A) the estimated incremental costs of the United States active duty forces deployed in Iraq and neighboring countries;

(B) the estimated costs of United States reserve component forces mobilized for service in Iraq and in neighboring countries;

(C) the estimated costs of replacing United States military equipment being used in Iraq; and

(D) the estimated costs of support to be provided by the United States to foreign troops in Iraq.

(9) An estimate of the total financial cost of the reconstruction of Iraq, together with—

(A) an estimate of the percentage of such cost that would be paid by the United States and a detailed accounting specified for major categories of cost; and

(B) the amounts of contributions pledged and paid by other countries, specified in major categories.

(10) A strategy for securing significant additional international financial support for the reconstruction of Iraq, including a discussion of the progress made in implementing the strategy.

(11) A schedule, including fixed timetables and costs, for the establishment of Iraqi security and armed forces that are fully trained and appropriately equipped and are able to defend Iraq and carry out other security duties without the involvement of the United States Armed Forces.

(12) An estimated schedule for the withdrawal of United States and foreign armed forces from Iraq.

(13) An estimated schedule for—

(A) the adoption of a democratic constitution in Iraq;

(B) the holding of democratic local and national elections in Iraq;

(C) the establishment of a democratically elected government in Iraq that has broad public support; and

(D) the timely withdrawal of United States and foreign armed forces from Iraq.

(d) Every 90 days after the submission of the report under subsection (c), the President shall submit to Congress an update of that report. The requirement for updates under the preceding sentence shall terminate upon the withdrawal of the United States Armed Forces (other than diplomatic security detachment personnel) from Iraq.

(e) The report under subsection (c) and the updates under subsection (d) shall be submitted in unclassified form.

SA 1819. Mr. BYRD (for himself and Mr. DURBIN) submitted an amendment intended to be proposed by him to the bill S. 1689, making emergency supplemental appropriations for Iraq and Afghanistan security and reconstruction

for the fiscal year ending September 30, 2004, and for other purposes; as follows:

At the appropriate place in Title III, insert the following:

SEC. ___.

(a) None of the funds under the heading Iraq Relief and Reconstruction Fund may be used for: a Facilities Protection Service Professional Standards and Training Program; any amount in excess of $50,000,000 for completion of irrigation and drainage systems; construction of water supply dams; any amount in excess of $25,000,000 for the construction of regulators for the Hawizeh Marsh; any amount in excess of $50,000,000 for a witness protection program; Postal Information Technology Architecture and Systems, including establishment of ZIP codes; civil aviation infrastructure cosmetics, such as parking lots, escalators and glass; museums and memorials; wireless fidelity networks for the Iraqi Telephone Postal Company; any amount in excess of $50,000,000 for construction of housing units; any amount in excess of $100,000,000 for an American-Iraqi Enterprise Fund; any amount in excess of $75,000,000 for expanding a network of employment centers, for on-the-job training, for computer literacy training, English as a Second Language or for Vocational Training Institutes or catch-up business training; any amount in excess of $782,500,000 for the purchase of petroleum product imports.

(b) Notwithstanding any other provision of this Act, amounts made available under the heading Iraq Relief and Reconstruction Fund shall be reduced by $600,000,000.

(c) In addition to the amounts otherwise made available in this Act, $600,000,000 shall be made available for Operation and Maintenance, Army: *Provided,* That these funds are available only for the purpose of securing and destroying conventional munitions in Iraq, such as bombs, bomb materials, small arms, rocket propelled grenades, and shoulder-launched missiles.

SA 1820. Ms. COLLINS (for herself, Mr. WYDEN, Mr. ENZI, Mr. LIEBERMAN, Mr. LAUTENBERG, Mrs. FEINSTEIN, Mr. AKAKA, Mrs. CLINTON, Mr. BYRD, Mr. MCCAIN, and Mr. LEVIN) proposed an amendment to the bill S. 1689, making emergency supplemental appropriations for Iraq and Afghanistan security and reconstruction for the fiscal year ending September 30, 2004, and for other purposes; as follows:

On page 39, between lines 2 and 3, insert the following:

SEC. 3002. (a) None of the funds appropriated by this Act may be obligated or expended by the head of an executive agency for payments under any contract or other agreement described in subsection (b) that is not entered into with full and open competition unless, not later than 30 days after the date on which the contract or other agreement is entered into, such official—

(1) submits a report on the contract or other agreement to the Committees on Armed Services, on Governmental Affairs, and on Appropriations of the Senate, and the Committees on Armed Services, on Government Reform, and on Appropriations of the House of Representatives; and

(2) publishes such report in the Federal Register and the Commerce Business Daily.

(b) This section applies to any contract or other agreement in excess of $1,000,000 that is entered into with any public or private sector entity for any of the following purposes:

(1) To build or rebuild physical infrastructure of Iraq.

(2) To establish or reestablish a political or societal institution of Iraq.

(3) To provide products or services to the people of Iraq.

(4) To perform personnel support services in Iraq, including related construction and procurement of products, in support of members of the Armed Forces and United States civilian personnel.

(c) The report on a contract or other agreement of an executive agency under subsection (a) shall include the following information:

(1) The amount of the contract or other agreement.

(2) A brief discussion of the scope of the contract or other agreement.

(3) A discussion of how the executive agency identified, and solicited offers from, potential contractors to perform the contract, together with a list of the potential contractors that were issued solicitations for the offers.

(4) The justification and approval documents on which was based the determination to use procedures other than procedures that provide for full and open competition.

(d) The limitation on use of funds in subsection (a) shall not apply in the case of any contract or other agreement entered into by the head of an executive agency for which such official—

(1) either—

(A) withholds from publication and disclosure as described in such subsection any document or other collection of information that is classified for restricted access in accordance with an Executive order in the interest of national defense or foreign policy; or

(B) redacts any part so classified that is in a document or other collection of information not so classified before publication and disclosure of the document or other information as described in such subsection; and

(2) transmits an unredacted version of the document or other collection of information, respectively, to the chairman and ranking member of each of the Committees on Governmental Affairs and on Appropriations of the Senate, the Committees on Government Reform and on Appropriations of the House of Representatives, and the committees that the head of such executive agency determines has legislative jurisdiction for the operations of such executive agency to which the document or other collection of information relates.

(e)(1)(A) In the case of any contract or other agreement for which the Secretary of Defense determines that it is necessary to do so in the national security interests of the United States, the Secretary may waive the limitation in subsection (a), but only on a case-by-case basis.

(B) For each contract or other agreement for which the Secretary of Defense grants a waiver under this paragraph, the Secretary shall submit a notification of the contract or other agreement and the grant of the waiver, together with a discussion of the justification for the waiver, to the committees of Congress named in subsection (a)(1).

(2)(A) In the case of any contract or other agreement for which the Director of Central Intelligence determines that it is necessary to do so in the national security interests of the United States related to intelligence, the Director may waive the limitation in subsection (a), but only on a case-by-case basis.

(B) For each contract or other agreement for which the Director of Central Intelligence grants a waiver under this paragraph, the Director shall submit a notification of the contract or other agreement and of the grant of the waiver, together with a discussion of the justification for the waiver, to the Select Committee on Intelligence, the Committee on Appropriations, and the Committee on Governmental Affairs of the Senate and to the Permanent Select Committee on Intelligence, the Committee on Appropriations, and the Committee on Governmental Reform of the House of Representatives.

(f) Nothing in this section shall be construed as affecting obligations to disclose United States Government information under any other provision of law.

(g) In this section—

(1) the term ''full and open competition'' has the meaning given such term in section 4 of the Office of Federal Procurement Policy Act (41 U.S.C. 403);

(2) the term ''executive agency'' has the meaning given such term in section 105 of title 5, United States Code, and includes the Coalition Provisional Authority for Iraq; and

(3) the term ''Coalition Provisional Authority for Iraq'' means the entity charged by the President with directing reconstruction efforts in Iraq.

SA 1821. Mr. STEVENS proposed an amendment to the bill S. 1689, making emergency supplemental appropriations for Iraq and Afghanistan security and reconstruction for the fiscal year ending September 30, 2004, and for other purposes; as follows:

Strike section 309.

SA 1822. Mr. REID (for Mrs. MURRAY (for herself and Mr. DURBIN)) proposed an amendment to the bill S. 1689, making emergency supplemental appropriations for Iraq and Afghanistan security and reconstruction for the fiscal year ending September 30, 2004, and for other purposes; as follows:

On page ____, between lines ____ and ____, insert the following new section:

SEC. ___. REQUIREMENTS RELATING TO UNITED STATES ACTIVITIES IN AFGHANISTAN AND IRAQ.

(a) GOVERNANCE.—Activities carried out by the United States with respect to the civilian governance of Afghanistan and Iraq shall, to the maximum extent practicable

(1) include the perspectives and advice of women's organizations in Afghanistan and Iraq, respectively;

(2) promote the inclusion of a representative number of women in future legislative bodies to ensure that the full range of human rights for women are included and upheld in any constitution or legal institution of Afghanistan and Iraq, respectively; and

(3) encourage the appointment of women to high level positions within ministries in Afghanistan and Iraq, respectively.

(b) POST-CONFLICT RECONSTRUCTION AND DEVELOPMENT.—Activities carried out by the United States with respect to post-conflict stability in Afghanistan and Iraq shall to the maximum extent practicable—

(1) encourage the United States organizations that receive funds made available by this Act to (a) partner with or create counterpart organizations led by Afghans and Iraqis, respectively, and (b) to provide such counterpart organizations with significant financial resources, technical assistance, and capacity building;

(2) increase the access of women to, or ownership by women of, productive assets such as land, water, agricultural inputs, credit, and property in Afghanistan and Iraq, respectively;

(3) provide long-term financial assistance for education for girls and women in Afghanistan and Iraq, respectively; and

(4) integrate education and training programs for former combatants in Afghanistan and Iraq, respectively, with economic development programs to—

(A) encourage the reintegration of such former combatants into society; and

(B) promote post-conflict stability in Afghanistan and Iraq, respectively.

(c) MILITARY AND POLICE.—Activities carried out by the United States with respect to training for military and police forces in Afghanistan and Iraq shall—

(1) include training on the protection, rights, and particular needs of women and emphasize that violations of women's rights are intolerable and should be prosecuted; and

(2) encourage the personnel providing the training described in paragraph (1) to consult with women's organizations in Afghanistan and Iraq, respectively, to ensure that training content and materials are adequate, appropriate, and comprehensive.

SA 1823. Mr. REID (for Ms. STABENOW (for herself, Mr. DURBIN, Mrs. BOXER, Mr. JOHNSON, and Mr. SCHUMER)) proposed an amendment to the bill S. 1689, making emergency supplemental appropriations for Iraq and Afghanistan security and reconstruction for the fiscal year ending September 30, 2004, and for other purposes; as follows:

At the appropriate place, insert the following:

SEC. ___. A MONTH FOR AMERICA.

(a) VETERANS HEALTHCARE.—For an additional amount for veterans healthcare programs and activities carried out by the Secretary of Veterans Affairs, $1,800,000,000 to remain available until expended.

(b) SCHOOL CONSTRUCTION.—

(1) IN GENERAL.—For an additional amount for the Fund for the Improvement of Education under part D of title V of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7241 et seq.), $1,000,000,000 for such fund that shall be used by the Secretary of Education to award formula grants to State educational agencies to enable such State educational agencies—

(A) to expand existing structures to alleviate overcrowding in public schools;

(B) to make renovations or modifications to existing structures necessary to support alignment of curriculum with State standards in mathematics, reading or language arts, or science in public schools served by such agencies;

(C) to make emergency repairs or renovations necessary to ensure the safety of students and staff and to bring public schools into compliance with fire and safety codes;

(D) to make modifications necessary to render public schools in compliance with the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.) and section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794);

(E) to abate or remove asbestos, lead, mold, and other environmental factors in public schools that are associated with poor cognitive outcomes in children; and

(F) to renovate, repair, and acquire needs related to infrastructure of charter schools.

(2) AMOUNT OF GRANT.—The Secretary of Education shall allocate amounts available for grants under this subsection to States in proportion to the funds received by the States, respectively, for the previous fiscal year under part A of title I of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6311 et seq).

(c) HEALTHCARE.—For an additional amount for healthcare programs and activities carried out through Federally qualified health centers (as defined in section 1861(aa) of the Social Security Act (42 U.S.C. 1395x(aa))), $103,000,000 to remain available until expended.

(d) TRANSPORTATION AND JOB CREATION.—

(1) IN GENERAL.—For an additional amount for transportation and job creation activities—

(A) $1,500,000,000 for capital investments for Federal-aid highways to remain available until expended; and

(B) $600,000,000 for mass transit capital and operating grants to remain available until expended.

(2) PRIORITY.—In allocating amounts appropriated under paragraph (1), the Secretary of Transportation shall give priority to Federal-aid highway and mass transit projects that can be commenced within 90 days of the date on which such amounts are allocated.

(b) OFFSET.—Each amount appropriated under title II under the heading ''OTHER BILATERAL ECONOMIC ASSISTANCE—FUNDS APPROPRIATED TO THE PRESIDENT—IRAQ RELIEF AND RECONSTRUCTION FUND'' (other than the amount appropriated for Iraqi border enforcement and enhanced security communications and the amount appropriated for the establishment of an Iraqi national security force and Iraqi Defense Corps) shall be reduced on a pro rata basis by $5,030,000,000.

(c) SENSE OF THE SENATE.—It is the sense of the Senate that Congress should consider an additional $5,030,000,000 funding for Iraq relief and reconstruction during the fiscal year 2005 budget and appropriations process.

SA 1824. Mr. FRIST (for Ms. SNOWE (for herself, Mr. FRIST, Mr. DASCHLE, Mr. GREGG, Mr. KENNEDY, Mr. JEFFORDS, Mr. ENZI, Mr. DODD, Mr. DEWINE, Mr. HARKIN, Ms. COLLINS, Mrs. MURRAY, Mr. HAGEL, Ms. CANTWELL, Mr. HATCH, Mr. LAUTENBERG, Mr. LUGAR, and Mr. KERRY)) proposed an amendment to the bill S. 1053, to prohibit discrimination on the basis of genetic information with respect to health insurance and employment; as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the ''Genetic Information Nondiscrimination Act of 2003''.

(b) TABLE OF CONTENTS.—The table of contents of this Act is as follows:

SEC. 2. FINDINGS.

Congress makes the following findings:

(1) Deciphering the sequence of the human genome and other advances in genetics open major new opportunities for medical progress. New knowledge about the genetic basis of illness will allow for earlier detection of illnesses, often before symptoms have begun. Genetic testing can allow individuals to take steps to reduce the likelihood that they will contract a particular disorder. New knowledge about genetics may allow for the development of better therapies that are more effective against disease or have fewer side effects than current treatments. These advances give rise to the potential misuse of genetic information to discriminate in health insurance and employment.

(2) The early science of genetics became the basis of State laws that provided for the sterilization of persons having presumed genetic ''defects'' such as mental retardation, mental disease, epilepsy, blindness, and hearing loss, among other conditions. The first sterilization law was enacted in the State of Indiana in 1907. By 1981, a majority of States adopted sterilization laws to ''correct'' apparent genetic traits or tendencies. Many of these State laws have since been repealed, and many have been modified to include essential constitutional requirements of due process and equal protection. However, the current explosion in the science of genetics, and the history of sterilization laws by the States based on early genetic science, compels Congressional action in this area.

(3) Although genes are facially neutral markers, many genetic conditions and disorders are associated with particular racial and ethnic groups and gender. Because some genetic traits are most prevalent in particular groups, members of a particular group may be stigmatized or discriminated against as a result of that genetic information. This form of discrimination was evident in the 1970s, which saw the advent of programs to screen and identify carriers of sickle cell anemia, a disease which afflicts African-Americans. Once again, State legislatures began to enact discriminatory laws in the area, and in the early 1970s began mandating genetic screening of all African Americans for sickle cell anemia, leading to discrimination and unnecessary fear. To alleviate some of this stigma, Congress in 1972 passed the National Sickle Cell Anemia Control Act, which withholds Federal funding from States unless sickle cell testing is voluntary.

(4) Congress has been informed of examples of genetic discrimination in the workplace. These include the use of pre-employment genetic screening at Lawrence Berkeley Laboratory, which led to a court decision in favor of the employees in that case *Norman-Bloodsaw v. Lawrence Berkeley Laboratory* (135 F.3d 1260, 1269 (9th Cir. 1998)). Congress clearly has a compelling public interest in relieving the fear of discrimination and in prohibiting its actual practice in employment and health insurance.

(5) Federal law addressing genetic discrimination in health insurance and employment is incomplete in both the scope and depth of its protections. Moreover, while many States have enacted some type of genetic non-discrimination law, these laws vary widely with respect to their approach, application, and level of protection. Congress has collected substantial evidence that the American public and the medical community find the existing patchwork of State and Federal laws to be confusing and inadequate to protect them from discrimination. Therefore Federal legislation establishing a national and uniform basic standard is necessary to fully protect the public from discrimination and allay their concerns about the potential for discrimination, thereby allowing individuals to take advantage of genetic testing, technologies, research, and new therapies.

TITLE I—GENETIC NONDISCRIMINATION IN HEALTH INSURANCE

SEC. 101. AMENDMENTS TO EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974.

(a) PROHIBITION OF HEALTH DISCRIMINATION ON THE BASIS OF GENETIC INFORMATION OR GENETIC SERVICES.—

(1) NO ENROLLMENT RESTRICTION FOR GENETIC SERVICES.—Section 702(a)(1)(F) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1182(a)(1)(F)) is amended by inserting before the period the following: ''(including information about a request for or receipt of genetic services by an individual or family member of such individual)''.

(2) NO DISCRIMINATION IN GROUP PREMIUMS BASED ON GENETIC INFORMATION.—Section 702(b) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1182(b)) is amended—

(A) in paragraph (2)(A), by inserting before the semicolon the following: ''except as provided in paragraph (3)''; and

(B) by adding at the end the following:

''(3) NO DISCRIMINATION IN GROUP PREMIUMS BASED ON GENETIC INFORMATION.—For purposes of this section, a group health plan, or a health insurance issuer offering group health insurance coverage in connection with a group health plan, shall not adjust premium or contribution amounts for a group on the basis of genetic information concerning an individual in the group or a family member of the individual (including information about a request for or receipt of genetic services by an individual or family member of such individual).''.

(b) LIMITATIONS ON GENETIC TESTING.—Section 702 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1182) is amended by adding at the end the following:

''(c) GENETIC TESTING.—

''(1) LIMITATION ON REQUESTING OR REQUIRING GENETIC TESTING.—A group health plan, or a health insurance issuer offering health insurance coverage in connection with a group health plan, shall not request or require an individual or a family member of such individual to undergo a genetic test.

''(2) RULE OF CONSTRUCTION.—Nothing in this part shall be construed to—

''(A) limit the authority of a health care professional who is providing health care services with respect to an individual to request that such individual or a family member of such individual undergo a genetic test;

''(B) limit the authority of a health care professional who is employed by or affiliated with a group health plan or a health insurance issuer and who is providing health care services to an individual as part of a bona fide wellness program to notify such individual of the availability of a genetic test or to provide information to such individual regarding such genetic test; or

''(C) authorize or permit a health care professional to require that an individual undergo a genetic test.

''(d) APPLICATION TO ALL PLANS.—The provisions of subsections (a)(1)(F), (b)(3), and (c) shall apply to group health plans and health insurance issuers without regard to section 732(a).''.

(c) REMEDIES AND ENFORCEMENT.—Section 502 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1132) is amended by adding at the end the following:

''(n) ENFORCEMENT OF GENETIC NONDISCRIMINATION REQUIREMENTS.—

''(1) INJUNCTIVE RELIEF FOR IRREPARABLE HARM.—With respect to any violation of subsection (a)(1)(F), (b)(3), or (c) of section 702, a participant or beneficiary may seek relief under subsection 502(a)(1)(B) prior to the exhaustion of available administrative remedies under section 503 if it is demonstrated to the court, by a preponderance of the evidence, that the exhaustion of such remedies would cause irreparable harm to the health of the participant or beneficiary. Any determinations that already have been made under section 503 in such case, or that are made in such case while an action under this paragraph is pending, shall be given due consideration by the court in any action under this subsection in such case.

''(2) EQUITABLE RELIEF FOR GENETIC NONDISCRIMINATION.—

''(A) REINSTATEMENT OF BENEFITS WHERE EQUITABLE RELIEF HAS BEEN AWARDED.—The recovery of benefits by a participant or beneficiary under a civil action under this section may include an administrative penalty under subparagraph (B) and the retroactive reinstatement of coverage under the plan involved to the date on which the participant or beneficiary was denied eligibility for coverage if—

''(i) the civil action was commenced under subsection (a)(1)(B); and

''(ii) the denial of coverage on which such civil action was based constitutes a violation of subsection (a)(1)(F), (b)(3), or (c) of section 702.

''(B) ADMINISTRATIVE PENALTY.—

''(i) IN GENERAL.—An administrator who fails to comply with the requirements of subsection (a)(1)(F), (b)(3), or (c) of section 702 with respect to a participant or beneficiary may, in an action commenced under subsection (a)(1)(B), be personally liable in the discretion of the court, for a penalty in the amount not more than $100 for each day in the noncompliance period.

''(ii) NONCOMPLIANCE PERIOD.—For purposes of clause (i), the term 'noncompliance period' means the period—

''(I) beginning on the date that a failure described in clause (i) occurs; and

''(II) ending on the date that such failure is corrected.

''(iii) PAYMENT TO PARTICIPANT OR BENEFICIARY.—A penalty collected under this subparagraph shall be paid to the participant or beneficiary involved.

''(3) SECRETARIAL ENFORCEMENT AUTHORITY.—

''(A) GENERAL RULE.—The Secretary has the authority to impose a penalty on any failure of a group health plan to meet the requirements of subsection (a)(1)(F), (b)(3), or (c) of section 702.

''(B) AMOUNT.—

''(i) IN GENERAL.—The amount of the penalty imposed by subparagraph (A) shall be $100 for each day in the noncompliance period with respect to each individual to whom such failure relates.

''(ii) NONCOMPLIANCE PERIOD.—For purposes of this paragraph, the term 'noncompliance period' means, with respect to any failure, the period—

''(I) beginning on the date such failure first occurs; and

''(II) ending on the date such failure is corrected.

''(C) MINIMUM PENALTIES WHERE FAILURE DISCOVERED.—Notwithstanding clauses (i) and (ii) of subparagraph (D):

''(i) IN GENERAL.—In the case of 1 or more failures with respect to an individual—

''(I) which are not corrected before the date on which the plan receives a notice from the Secretary of such violation; and

''(II) which occurred or continued during the period involved;

the amount of penalty imposed by subparagraph (A) by reason of such failures with respect to such individual shall not be less than $2,500.

''(ii) HIGHER MINIMUM PENALTY WHERE VIOLATIONS ARE MORE THAN DE MINIMIS.—To the extent violations for which any person is liable under this paragraph for any year are more than de minimis, clause (i) shall be applied by substituting '$15,000' for '$2,500' with respect to such person.

''(D) LIMITATIONS.—

''(i) PENALTY NOT TO APPLY WHERE FAILURE NOT DISCOVERED EXERCISING REASONABLE DILIGENCE.—No penalty shall be imposed by subparagraph (A) on any failure during any period for which it is established to the satisfaction of the Secretary that the person otherwise liable for such penalty did not know, and exercising reasonable diligence would not have known, that such failure existed.

''(ii) PENALTY NOT TO APPLY TO FAILURES CORRECTED WITHIN CERTAIN PERIODS.—No penalty shall be imposed by subparagraph (A) on any failure if—

''(I) such failure was due to reasonable cause and not to willful neglect; and

''(II) such failure is corrected during the 30-day period beginning on the first date the person otherwise liable for such penalty knew, or exercising reasonable diligence would have known, that such failure existed.

''(iii) OVERALL LIMITATION FOR UNINTENTIONAL FAILURES.—In the case of failures which are due to reasonable cause and not to willful neglect, the penalty imposed by subparagraph (A) for failures shall not exceed the amount equal to the lesser of—

''(I) 10 percent of the aggregate amount paid or incurred by the employer (or predecessor employer) during the preceding taxable year for group health plans; or

''(II) $500,000.

''(E) WAIVER BY SECRETARY.—In the case of a failure which is due to reasonable cause and not to willful neglect, the Secretary may waive part or all of the penalty imposed by subparagraph (A) to the extent that the payment of such penalty would be excessive relative to the failure involved.''.

(d) DEFINITIONS.—Section 733(d) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1191b(d)) is amended by adding at the end the following:

''(5) FAMILY MEMBER.—The term 'family member' means with respect to an individual—

''(A) the spouse of the individual;

''(B) a dependent child of the individual, including a child who is born to or placed for adoption with the individual; and

''(C) all other individuals related by blood to the individual or the spouse or child described in subparagraph (A) or (B).

''(6) GENETIC INFORMATION.—

''(A) IN GENERAL.—Except as provided in subparagraph (B), the term 'genetic information' means information about—

''(i) an individual's genetic tests;

''(ii) the genetic tests of family members of the individual; or

''(iii) the occurrence of a disease or disorder in family members of the individual.

''(B) EXCLUSIONS.—The term 'genetic information' shall not include information about the sex or age of an individual.

''(7) GENETIC TEST.—

''(A) IN GENERAL.—The term 'genetic test' means an analysis of human DNA, RNA, chromosomes, proteins, or metabolites, that detects genotypes, mutations, or chromosomal changes.

''(B) EXCEPTIONS.—The term 'genetic test' does not mean—

''(i) an analysis of proteins or metabolites that does not detect genotypes, mutations, or chromosomal changes; or

''(ii) an analysis of proteins or metabolites that is directly related to a manifested disease, disorder, or pathological condition that could reasonably be detected by a health care professional with appropriate training and expertise in the field of medicine involved.

''(8) GENETIC SERVICES.—The term 'genetic services' means—

''(A) a genetic test;

''(B) genetic counseling (such as obtaining, interpreting, or assessing genetic information); or

''(C) genetic education.''.

(e) REGULATIONS AND EFFECTIVE DATE.—

(1) REGULATIONS.—Not later than 1 year after the date of enactment of this title, the Secretary of Labor shall issue final regulations in an accessible format to carry out the amendments made by this section.

(2) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to group health plans for plan years beginning after the date that is 18 months after the date of enactment of this title.

SEC. 102. AMENDMENTS TO THE PUBLIC HEALTH SERVICE ACT.

(a) AMENDMENTS RELATING TO THE GROUP MARKET.—

(1) PROHIBITION OF HEALTH DISCRIMINATION ON THE BASIS OF GENETIC INFORMATION OR GENETIC SERVICES.—

(A) NO ENROLLMENT RESTRICTION FOR GENETIC SERVICES.—Section 2702(a)(1)(F) of the Public Health Service Act (42 U.S.C. 300gg–1(a)(1)(F)) is amended by inserting before the period the following: ''(including information about a request for or receipt of genetic services by an individual or family member of such individual)''.

(B) NO DISCRIMINATION IN GROUP PREMIUMS BASED ON GENETIC INFORMATION.—Section 2702(b) of the Public Health Service Act (42 U.S.C. 300gg–1(b)) is amended—

(i) in paragraph (2)(A), by inserting before the semicolon the following: '', except as provided in paragraph (3)''; and

(ii) by adding at the end the following:

''(3) NO DISCRIMINATION IN GROUP PREMIUMS BASED ON GENETIC INFORMATION.—For purposes of this section, a group health plan, or a health insurance issuer offering group health insurance coverage in connection with a group health plan, shall not adjust premium or contribution amounts for a group on the basis of genetic information concerning an individual in the group or a family member of the individual (including information about a request for or receipt of genetic services by an individual or family member of such individual).''.

(2) LIMITATIONS ON GENETIC TESTING.—Section 2702 of the Public Health Service Act (42 U.S.C. 300gg–1) is amended by adding at the end the following:

''(c) GENETIC TESTING.—

''(1) LIMITATION ON REQUESTING OR REQUIRING GENETIC TESTING.—A group health plan, or a health insurance issuer offering health insurance coverage in connection with a group health plan, shall not request or require an individual or a family member of such individual to undergo a genetic test.

''(2) RULE OF CONSTRUCTION.—Nothing in this part shall be construed to—

''(A) limit the authority of a health care professional who is providing health care services with respect to an individual to request that such individual or a family member of such individual undergo a genetic test;

''(B) limit the authority of a health care professional who is employed by or affiliated with a group health plan or a health insurance issuer and who is providing health care services to an individual as part of a bona fide wellness program to notify such individual of the availability of a genetic test or to provide information to such individual regarding such genetic test; or

''(C) authorize or permit a health care professional to require that an individual undergo a genetic test.

''(d) APPLICATION TO ALL PLANS.—The provisions of subsections (a)(1)(F), (b)(3), and (c) shall apply to group health plans and health insurance issuers without regard to section 2721(a).''.

(3) REMEDIES AND ENFORCEMENT.—Section 2722(b) of the Public Health Service Act (42 U.S.C. 300gg-22)(b)) is amended by adding at the end the following:

''(3) ENFORCEMENT AUTHORITY RELATING TO GENETIC DISCRIMINATION.—

''(A) GENERAL RULE.—In the cases described in paragraph (1), notwithstanding the provisions of paragraph (2)(C), the following provisions shall apply with respect to an action under this subsection by the Secretary with respect to any failure of a health insurance issuer in connection with a group health plan, to meet the requirements of subsection (a)(1)(F), (b)(3), or (c) of section 2702.

''(B) AMOUNT.—

''(i) IN GENERAL.—The amount of the penalty imposed under this paragraph shall be $100 for each day in the noncompliance period with respect to each individual to whom such failure relates.

''(ii) NONCOMPLIANCE PERIOD.—For purposes of this paragraph, the term 'noncompliance period' means, with respect to any failure, the period—

''(I) beginning on the date such failure first occurs; and

''(II) ending on the date such failure is corrected.

''(C) MINIMUM PENALTIES WHERE FAILURE DISCOVERED.—Notwithstanding clauses (i) and (ii) of subparagraph (D):

''(i) IN GENERAL.—In the case of 1 or more failures with respect to an individual—

''(I) which are not corrected before the date on which the plan receives a notice from the Secretary of such violation; and

''(II) which occurred or continued during the period involved;

the amount of penalty imposed by subparagraph (A) by reason of such failures with respect to such individual shall not be less than $2,500.

''(ii) HIGHER MINIMUM PENALTY WHERE VIOLATIONS ARE MORE THAN DE MINIMIS.—To the extent violations for which any person is liable under this paragraph for any year are more than de minimis, clause (i) shall be applied by substituting '$15,000' for '$2,500' with respect to such person.

''(D) LIMITATIONS.—

''(i) PENALTY NOT TO APPLY WHERE FAILURE NOT DISCOVERED EXERCISING REASONABLE DILIGENCE.—No penalty shall be imposed by subparagraph (A) on any failure during any period for which it is established to the satisfaction of the Secretary that the person otherwise liable for such penalty did not know, and exercising reasonable diligence would not have known, that such failure existed.

''(ii) PENALTY NOT TO APPLY TO FAILURES CORRECTED WITHIN CERTAIN PERIODS.—No penalty shall be imposed by subparagraph (A) on any failure if—

''(I) such failure was due to reasonable cause and not to willful neglect; and

''(II) such failure is corrected during the 30-day period beginning on the first date the person otherwise liable for such penalty knew, or exercising reasonable diligence would have known, that such failure existed.

''(iii) OVERALL LIMITATION FOR UNINTENTIONAL FAILURES.—In the case of failures which are due to reasonable cause and not to willful neglect, the penalty imposed by subparagraph (A) for failures shall not exceed the amount equal to the lesser of—

''(I) 10 percent of the aggregate amount paid or incurred by the employer (or predecessor employer) during the preceding taxable year for group health plans; or

''(II) $500,000.

''(E) WAIVER BY SECRETARY.—In the case of a failure which is due to reasonable cause and not to willful neglect, the Secretary may waive part or all of the penalty imposed by subparagraph (A) to the extent that the payment of such penalty would be excessive relative to the failure involved.''.

(4) DEFINITIONS.—Section 2791(d) of the Public Health Service Act (42 U.S.C. 300gg–91(d)) is amended by adding at the end the following:

''(15) FAMILY MEMBER.—The term 'family member' means with respect to an individual—

''(A) the spouse of the individual;

''(B) a dependent child of the individual, including a child who is born to or placed for adoption with the individual; and

''(C) all other individuals related by blood to the individual or the spouse or child described in subparagraph (A) or (B).

''(16) GENETIC INFORMATION.—

''(A) IN GENERAL.—Except as provided in subparagraph (B), the term 'genetic information' means information about—

''(i) an individual's genetic tests;

''(ii) the genetic tests of family members of the individual; or

''(iii) the occurrence of a disease or disorder in family members of the individual.

''(B) EXCLUSIONS.—The term 'genetic information' shall not include information about the sex or age of an individual.

''(17) GENETIC TEST.—

''(A) IN GENERAL.—The term 'genetic test' means an analysis of human DNA, RNA, chromosomes, proteins, or metabolites, that detects genotypes, mutations, or chromosomal changes.

''(B) EXCEPTIONS.—The term 'genetic test' does not mean—

''(i) an analysis of proteins or metabolites that does not detect genotypes, mutations, or chromosomal changes; or

''(ii) an analysis of proteins or metabolites that is directly related to a manifested disease, disorder, or pathological condition that could reasonably be detected by a health care professional with appropriate training and expertise in the field of medicine involved.

''(18) GENETIC SERVICES.—The term 'genetic services' means—

''(A) a genetic test;

''(B) genetic counseling (such as obtaining, interpreting, or assessing genetic information); or

''(C) genetic education.''.

(b) AMENDMENT RELATING TO THE INDIVIDUAL MARKET.—

(1) IN GENERAL.—The first subpart 3 of part B of title XXVII of the Public Health Service Act (42 U.S.C. 300gg–51 et seq.) (relating to other requirements) is amended—

(A) by redesignating such subpart as subpart 2; and

(B) by adding at the end the following:

''SEC. 2753. PROHIBITION OF HEALTH DISCRIMINATION ON THE BASIS OF GENETIC INFORMATION.

''(a) PROHIBITION ON GENETIC INFORMATION AS A CONDITION OF ELIGIBILITY.—A health insurance issuer offering health insurance coverage in the individual market may not establish rules for the eligibility (including continued eligibility) of any individual to enroll in individual health insurance coverage based on genetic information (including information about a request for or receipt of genetic services by an individual or family member of such individual).

''(b) PROHIBITION ON GENETIC INFORMATION IN SETTING PREMIUM RATES.—A health insurance issuer offering health insurance coverage in the individual market shall not adjust premium or contribution amounts for an individual on the basis of genetic information concerning the individual or a family member of the individual (including information about a request for or receipt of genetic services by an individual or family member of such individual).

''(c) GENETIC TESTING.—

''(1) LIMITATION ON REQUESTING OR REQUIRING GENETIC TESTING.—A health insurance issuer offering health insurance coverage in the individual market shall not request or require an individual or a family member of such individual to undergo a genetic test.

''(2) RULE OF CONSTRUCTION.—Nothing in this part shall be construed to—

''(A) limit the authority of a health care professional who is providing health care services with respect to an individual to request that such individual or a family member of such individual undergo a genetic test;

''(B) limit the authority of a health care professional who is employed by or affiliated with a health insurance issuer and who is providing health care services to an individual as part of a bona fide wellness program to notify such individual of the availability of a genetic test or to provide information to such individual regarding such genetic test; or

''(C) authorize or permit a health care professional to require that an individual undergo a genetic test.''.

(2) REMEDIES AND ENFORCEMENT.—Section 2761(b) of the Public Health Service Act (42 U.S.C. 300gg-61)(b)) is amended to read as follows:

''(b) SECRETARIAL ENFORCEMENT AUTHORITY.—The Secretary shall have the same authority in relation to enforcement of the provisions of this part with respect to issuers of health insurance coverage in the individual market in a State as the Secretary has under section 2722(b)(2), and section 2722(b)(3) with respect to violations of genetic nondiscrimination provisions, in relation to the enforcement of the provisions of part A with respect to issuers of health insurance coverage in the small group market in the State.''.

(c) ELIMINATION OF OPTION OF NON-FEDERAL GOVERNMENTAL PLANS TO BE EXCEPTED FROM REQUIREMENTS CONCERNING GENETIC INFORMATION.—Section 2721(b)(2) of the Public Health Service Act (42 U.S. C. 300gg–21(b)(2)) is amended—

(1) in subparagraph (A), by striking ''If the plan sponsor'' and inserting ''Except as provided in subparagraph (D), if the plan sponsor''; and

(2) by adding at the end the following:

''(D) ELECTION NOT APPLICABLE TO REQUIREMENTS CONCERNING GENETIC INFORMATION.—The election described in subparagraph (A) shall not be available with respect to the provisions of subsections (a)(1)(F) and (c) of section 2702 and the provisions of section 2702(b) to the extent that such provisions apply to genetic information (or information about a request for or the receipt of genetic services by an individual or a family member of such individual).''.

(d) REGULATIONS AND EFFECTIVE DATE.—

(1) REGULATIONS.—Not later than 1 year after the date of enactment of this title, the Secretary of Labor and the Secretary of Health and Human Services (as the case may be) shall issue final regulations in an accessible format to carry out the amendments made by this section.

(2) EFFECTIVE DATE.—The amendments made by this section shall apply—

(A) with respect to group health plans, and health insurance coverage offered in connection with group health plans, for plan years beginning after the date that is 18 months after the date of enactment of this title; and

(B) with respect to health insurance coverage offered, sold, issued, renewed, in effect, or operated in the individual market after the date that is 18 months after the date of enactment of this title.

SEC. 103. AMENDMENTS TO THE INTERNAL REVENUE CODE OF 1986.

(a) PROHIBITION OF HEALTH DISCRIMINATION ON THE BASIS OF GENETIC INFORMATION OR GENETIC SERVICES.—

(1) NO ENROLLMENT RESTRICTION FOR GENETIC SERVICES.—Section 9802(a)(1)(F) of the Internal Revenue Code of 1986 is amended by inserting before the period the following: ''(including information about a request for or receipt of genetic services by an individual or family member of such individual)''.

(2) NO DISCRIMINATION IN GROUP PREMIUMS BASED ON GENETIC INFORMATION.—Section 9802(b) of the Internal Revenue Code of 1986 is amended—

(A) in paragraph (2)(A), by inserting before the semicolon the following: '', except as provided in paragraph (3)''; and

(B) by adding at the end the following:

''(3) NO DISCRIMINATION IN GROUP PREMIUMS BASED ON GENETIC INFORMATION.—For purposes of this section, a group health plan shall not adjust premium or contribution amounts for a group on the basis of genetic information concerning an individual in the group or a family member of the individual (including information about a request for or receipt of genetic services by an individual or family member of such individual).''.

(b) LIMITATIONS ON GENETIC TESTING.—Section 9802 of the Internal Revenue Code of 1986 is amended by adding at the end the following:

''(d) GENETIC TESTING AND GENETIC SERVICES.—

''(1) LIMITATION ON REQUESTING OR REQUIRING GENETIC TESTING.—A group health plan shall not request or require an individual or a family member of such individual to undergo a genetic test.

''(2) RULE OF CONSTRUCTION.—Nothing in this part shall be construed to—

''(A) limit the authority of a health care professional who is providing health care services with respect to an individual to request that such individual or a family member of such individual undergo a genetic test;

''(B) limit the authority of a health care professional who is employed by or affiliated with a group health plan and who is providing health care services to an individual as part of a bona fide wellness program to notify such individual of the availability of a genetic test or to provide information to such individual regarding such genetic test; or

''(C) authorize or permit a health care professional to require that an individual undergo a genetic test.

''(e) APPLICATION TO ALL PLANS.—The provisions of subsections (a)(1)(F), (b)(3), and (d) shall apply to group health plans and health insurance issuers without regard to section 9831(a)(2).''.

(c) DEFINITIONS.—Section 9832(d) of the Internal Revenue Code of 1986 is amended by adding at the end the following:

''(6) FAMILY MEMBER.—The term 'family member' means with respect to an individual—

''(A) the spouse of the individual;

''(B) a dependent child of the individual, including a child who is born to or placed for adoption with the individual; and

''(C) all other individuals related by blood to the individual or the spouse or child described in subparagraph (A) or (B).

''(7) GENETIC SERVICES.—The term 'genetic services' means—

''(A) a genetic test;

''(B) genetic counseling (such as obtaining, interpreting, or assessing genetic information); or

''(C) genetic education.

''(8) GENETIC INFORMATION.—

''(A) IN GENERAL.—Except as provided in subparagraph (B), the term 'genetic information' means information about—

''(i) an individual's genetic tests;

''(ii) the genetic tests of family members of the individual; or

''(iii) the occurrence of a disease or disorder in family members of the individual.

''(B) EXCLUSIONS.—The term 'genetic information' shall not include information about the sex or age of an individual.

''(9) GENETIC TEST.—

''(A) IN GENERAL.—The term 'genetic test' means an analysis of human DNA, RNA, chromosomes, proteins, or metabolites, that detects genotypes, mutations, or chromosomal changes.

''(B) EXCEPTIONS.—The term 'genetic test' does not mean—

''(i) an analysis of proteins or metabolites that does not detect genotypes, mutations, or chromosomal changes; or

''(ii) an analysis of proteins or metabolites that is directly related to a manifested disease, disorder, or pathological condition that could reasonably be detected by a health care professional with appropriate training and expertise in the field of medicine involved.''.

(d) REGULATIONS AND EFFECTIVE DATE.—

(1) REGULATIONS.—Not later than 1 year after the date of enactment of this title, the Secretary of the Treasury shall issue final regulations in an accessible format to carry out the amendments made by this section.

(2) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to group health plans for plan years beginning after the date that is 18 months after the date of enactment of this title.

SEC. 104. AMENDMENTS TO TITLE XVIII OF THE SOCIAL SECURITY ACT RELATING TO MEDIGAP.

(a) NONDISCRIMINATION.—

(1) IN GENERAL.—Section 1882(s)(2) of the Social Security Act (42 U.S.C. 1395ss(s)(2)) is amended by adding at the end the following:

''(E)(i) An issuer of a medicare supplemental policy shall not deny or condition the issuance or effectiveness of the policy, and shall not discriminate in the pricing of the policy (including the adjustment of premium rates) of an eligible individual on the basis of genetic information concerning the individual (or information about a request for, or the receipt of, genetic services by such individual or family member of such individual).

''(ii) For purposes of clause (i), the terms 'family member', 'genetic services', and 'genetic information' shall have the meanings given such terms in subsection (v).''.

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply with respect to a policy for policy years beginning after the date that is 18 months after the date of enactment of this Act.

(b) LIMITATIONS ON GENETIC TESTING.—

(1) IN GENERAL.—Section 1882 of the Social Security Act (42 U.S.C. 1395ss) is amended by adding at the end the following:

''(v) LIMITATIONS ON GENETIC TESTING.—

''(1) GENETIC TESTING.—

''(A) LIMITATION ON REQUESTING OR REQUIRING GENETIC TESTING.—An issuer of a medicare supplemental policy shall not request or require an individual or a family member of such individual to undergo a genetic test.

''(B) RULE OF CONSTRUCTION.—Nothing in this title shall be construed to—

''(i) limit the authority of a health care professional who is providing health care services with respect to an individual to request that such individual or a family member of such individual undergo a genetic test;

''(ii) limit the authority of a health care professional who is employed by or affiliated with an issuer of a medicare supplemental policy and who is providing health care services to an individual as part of a bona fide wellness program to notify such individual of the availability of a genetic test or to provide information to such individual regarding such genetic test; or

''(iii) authorize or permit a health care professional to require that an individual undergo a genetic test.

''(2) DEFINITIONS.—In this subsection:

''(A) FAMILY MEMBER.—The term 'family member' means with respect to an individual—

''(i) the spouse of the individual;

''(ii) a dependent child of the individual, including a child who is born to or placed for adoption with the individual; or

''(iii) any other individuals related by blood to the individual or to the spouse or child described in clause (i) or (ii).

''(B) GENETIC INFORMATION.—

''(i) IN GENERAL.—Except as provided in clause (ii), the term 'genetic information' means information about—

''(I) an individual's genetic tests;

''(II) the genetic tests of family members of the individual; or

''(III) the occurrence of a disease or disorder in family members of the individual.

''(ii) EXCLUSIONS.—The term 'genetic information' shall not include information about the sex or age of an individual.

''(C) GENETIC TEST.—

''(i) IN GENERAL.—The term 'genetic test' means an analysis of human DNA, RNA, chromosomes, proteins, or metabolites, that detects genotypes, mutations, or chromosomal changes.

''(ii) EXCEPTIONS.—The term 'genetic test' does not mean—

''(I) an analysis of proteins or metabolites that does not detect genotypes, mutations, or chromosomal changes; or

''(II) an analysis of proteins or metabolites that is directly related to a manifested disease, disorder, or pathological condition that could reasonably be detected by a health care professional with appropriate training and expertise in the field of medicine involved.

''(D) GENETIC SERVICES.—The term 'genetic services' means—

''(i) a genetic test;

''(ii) genetic counseling (such as obtaining, interpreting, or assessing genetic information); or

''(iii) genetic education.

''(E) ISSUER OF A MEDICARE SUPPLEMENTAL POLICY.—The term 'issuer of a medicare supplemental policy' includes a third-party administrator or other person acting for or on behalf of such issuer.''.

(2) CONFORMING AMENDMENT.—Section 1882(o) of the Social Security Act (42 U.S.C. 1395ss(o)) is amended by adding at the end the following:

''(4) The issuer of the medicare supplemental policy complies with subsection (s)(2)(E) and subsection (v).''.

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply with respect to an issuer of a medicare supplemental policy for policy years beginning on or after the date that is 18 months after the date of enactment of this Act.

(c) TRANSITION PROVISIONS.—

(1) IN GENERAL.—If the Secretary of Health and Human Services identifies a State as requiring a change to its statutes or regulations to conform its regulatory program to the changes made by this section, the State regulatory program shall not be considered to be out of compliance with the requirements of section 1882 of the Social Security Act due solely to failure to make such change until the date specified in paragraph (4).

(2) NAIC STANDARDS.—If, not later than June 30, 2004, the National Association of Insurance Commissioners (in this subsection referred to as the ''NAIC'') modifies its NAIC Model Regulation relating to section 1882 of the Social Security Act (referred to in such section as the 1991 NAIC Model Regulation, as subsequently modified) to conform to the amendments made by this section, such revised regulation incorporating the modifications shall be considered to be the applicable NAIC model regulation (including the revised NAIC model regulation and the 1991 NAIC Model Regulation) for the purposes of such section.

(3) SECRETARY STANDARDS.—If the NAIC does not make the modifications described in paragraph (2) within the period specified in such paragraph, the Secretary of Health and Human Services shall, not later than October 1, 2004, make the modifications described in such paragraph and such revised regulation incorporating the modifications shall be considered to be the appropriate regulation for the purposes of such section.

(4) DATE SPECIFIED.—

(A) IN GENERAL.—Subject to subparagraph (B), the date specified in this paragraph for a State is the earlier of—

(i) the date the State changes its statutes or regulations to conform its regulatory program to the changes made by this section, or

(ii) October 1, 2004.

(B) ADDITIONAL LEGISLATIVE ACTION REQUIRED.—In the case of a State which the Secretary identifies as—

(i) requiring State legislation (other than legislation appropriating funds) to conform its regulatory program to the changes made in this section, but

(ii) having a legislature which is not scheduled to meet in 2004 in a legislative session in which such legislation may be considered,

the date specified in this paragraph is the first day of the first calendar quarter beginning after the close of the first legislative session of the State legislature that begins on or after July 1, 2004. For purposes of the previous sentence, in the case of a State that has a 2-year legislative session, each year of such session shall be deemed to be a separate regular session of the State legislature.

SEC. 105. PRIVACY AND CONFIDENTIALITY.

(a) APPLICABILITY.—Except as provided in subsection (d), the provisions of this section shall apply to group health plans, health insurance issuers (including issuers in connection with group health plans or individual health coverage), and issuers of medicare supplemental policies, without regard to—

(1) section 732(a) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1191a(a));

(2) section 2721(a) of the Public Health Service Act (42 U.S.C. 300gg-21(a)); and

(3) section 9831(a)(2) of the Internal Revenue Code of 1986.

(b) COMPLIANCE WITH CERTAIN CONFIDENTIALITY STANDARDS WITH RESPECT TO GENETIC INFORMATION.—

(1) IN GENERAL.—The regulations promulgated by the Secretary of Health and Human Services under part C of title XI of the Social Security Act (42 U.S.C. 1320d et seq.) and section 264 of the Health Insurance Portability and Accountability Act of 1996 (42 U.S.C. 1320d-2 note) shall apply to the use or disclosure of genetic information.

(2) PROHIBITION ON UNDERWRITING AND PREMIUM RATING.—Notwithstanding paragraph (1), a group health plan, a health insurance issuer, or issuer of a medicare supplemental policy shall not use or disclose genetic information (including information about a request for or a receipt of genetic services by an individual or family member of such individual) for purposes of underwriting, determinations of eligibility to enroll, premium rating, or the creation, renewal or replacement of a plan, contract or coverage for health insurance or health benefits.

(c) PROHIBITION ON COLLECTION OF GENETIC INFORMATION.—

(1) IN GENERAL.—A group health plan, health insurance issuer, or issuer of a medicare supplemental policy shall not request, require, or purchase genetic information (including information about a request for or a receipt of genetic services by an individual or family member of such individual) for purposes of underwriting, determinations of eligibility to enroll, premium rating, or the creation, renewal or replacement of a plan, contract or coverage for health insurance or health benefits.

(2) LIMITATION RELATING TO THE COLLECTION OF GENETIC INFORMATION PRIOR TO ENROLLMENT.—A group health plan, health insurance issuer, or issuer of a medicare supplemental policy shall not request, require, or purchase genetic information (including information about a request for or a receipt of genetic services by an individual or family member of such individual) concerning a participant, beneficiary, or enrollee prior to the enrollment, and in connection with such enrollment, of such individual under the plan, coverage, or policy.

(3) INCIDENTAL COLLECTION.—Where a group health plan, health insurance issuer, or issuer of a medicare supplemental policy obtains genetic information incidental to the requesting, requiring, or purchasing of other information concerning a participant, beneficiary, or enrollee, such request, requirement, or purchase shall not be considered a violation of this subsection if—

(A) such request, requirement, or purchase is not in violation of paragraph (1); and

(B) any genetic information (including information about a request for or receipt of genetic services) requested, required, or purchased is not used or disclosed in violation of subsection (b).

(d) APPLICATION OF CONFIDENTIALITY STANDARDS.—The provisions of subsections (b) and (c) shall not apply—

(1) to group health plans, health insurance issuers, or issuers of medicare supplemental policies that are not otherwise covered under the regulations promulgated by the Secretary of Health and Human Services under part C of title XI of the Social Security Act (42 U.S.C. 1320d et seq.) and section 264 of the Health Insurance Portability and Accountability Act of 1996 (42 U.S.C. 1320d-2 note); and

(2) to genetic information that is not considered to be individually-identifiable health information under the regulations promulgated by the Secretary of Health and Human Services under part C of title XI of the Social Security Act (42 U.S.C. 1320d et seq.) and

section 264 of the Health Insurance Portability and Accountability Act of 1996 (42 U.S.C. 1320d-2 note).

(e) ENFORCEMENT.—A group health plan, health insurance issuer, or issuer of a medicare supplemental policy that violates a provision of this section shall be subject to the penalties described in sections 1176 and 1177 of the Social Security Act (42 U.S.C. 1320d-5 and 1320d-6) in the same manner and to the same extent that such penalties apply to violations of part C of title XI of such Act.

(f) PREEMPTION.—

(1) IN GENERAL.—A provision or requirement under this section or a regulation promulgated under this section shall supersede any contrary provision of State law unless such provision of State law imposes requirements, standards, or implementation specifications that are more stringent than the requirements, standards, or implementation specifications imposed under this section or such regulations. No penalty, remedy, or cause of action to enforce such a State law that is more stringent shall be preempted by this section.

(2) RULE OF CONSTRUCTION.—Nothing in paragraph (1) shall be construed to establish a penalty, remedy, or cause of action under State law if such penalty, remedy, or cause of action is not otherwise available under such State law.

(g) COORDINATION WITH PRIVACY REGULATIONS.—The Secretary shall implement and administer this section in a manner that is consistent with the implementation and administration by the Secretary of the regulations promulgated by the Secretary of Health and Human Services under part C of title XI of the Social Security Act (42 U.S.C. 1320d et seq.) and section 264 of the Health Insurance Portability and Accountability Act of 1996 (42 U.S.C. 1320d-2 note).

(h) DEFINITIONS.—In this section:

(1) GENETIC INFORMATION; GENETIC SERVICES.—The terms ''family member'', ''genetic information'', ''genetic services'', and ''genetic test'' have the meanings given such terms in section 2791 of the Public Health Service Act (42 U.S.C. 300gg-91), as amended by this Act.

(2) GROUP HEALTH PLAN; HEALTH INSURANCE ISSUER.—The terms ''group health plan'' and ''health insurance issuer'' include only those plans and issuers that are covered under the regulations described in subsection (d)(1).

(3) ISSUER OF A MEDICARE SUPPLEMENTAL POLICY.—The term ''issuer of a medicare supplemental policy'' means an issuer described in section 1882 of the Social Security Act (42 insert 1395ss).

(4) SECRETARY.—The term ''Secretary'' means the Secretary of Health and Human Services.

SEC. 106. ASSURING COORDINATION.

(a) IN GENERAL.—Except as provided in subsection (b), the Secretary of the Treasury, the Secretary of Health and Human Services, and the Secretary of Labor shall ensure, through the execution of an interagency memorandum of understanding among such Secretaries, that—

(1) regulations, rulings, and interpretations issued by such Secretaries relating to the same matter over which two or more such Secretaries have responsibility under this title (and the amendments made by this title) are administered so as to have the same effect at all times; and

(2) coordination of policies relating to enforcing the same requirements through such Secretaries in order to have a coordinated enforcement strategy that avoids duplication of enforcement efforts and assigns priorities in enforcement.

(b) AUTHORITY OF THE SECRETARY.—The Secretary of Health and Human Services has the sole authority to promulgate regulations to implement section 105.

SEC. 107. REGULATIONS; EFFECTIVE DATE.

(a) REGULATIONS.—Not later than 1 year after the date of enactment of this title, the Secretary of Labor, the Secretary of Health and Human Services, and the Secretary of the Treasury shall issue final regulations in an accessible format to carry out this title.

(b) EFFECTIVE DATE.—Except as provided in section 104, the amendments made by this title shall take effect on the date that is 18 months after the date of enactment of this Act.

TITLE II—PROHIBITING EMPLOYMENT DISCRIMINATION ON THE BASIS OF GENETIC INFORMATION

SEC. 201. DEFINITIONS.

In this title:

(1) COMMISSION.—The term ''Commission'' means the Equal Employment Opportunity Commission as created by section 705 of the Civil Rights Act of 1964 (42 U.S.C. 2000e-4).

(2) EMPLOYEE; EMPLOYER; EMPLOYMENT AGENCY; LABOR ORGANIZATION; MEMBER.—

(A) IN GENERAL.—The term ''employee'' means—

(i) an employee (including an applicant), as defined in section 701(f) of the Civil Rights Act of 1964 (42 U.S.C. 2000e(f));

(ii) a State employee (including an applicant) described in section 304(a) of the Government Employee Rights Act of 1991 (42 U.S.C. 2000e–16c(a));

(iii) a covered employee (including an applicant), as defined in section 101 of the Congressional Accountability Act of 1995 (2 U.S.C. 1301);

(iv) a covered employee (including an applicant), as defined in section 411(c) of title 3, United States Code; or

(v) an employee or applicant to which section 717(a) of the Civil Rights Act of 1964 (42 U.S.C. 2000e–16(a)) applies.

(B) EMPLOYER.—The term ''employer'' means—

(i) an employer (as defined in section 701(b) of the Civil Rights Act of 1964 (42 U.S.C. 2000e(b));

(ii) an entity employing a State employee described in section 304(a) of the Government Employee Rights Act of 1991;

(iii) an employing office, as defined in section 101 of the Congressional Accountability Act of 1995;

(iv) an employing office, as defined in section 411(c) of title 3, United States Code; or

(v) an entity to which section 717(a) of the Civil Rights Act of 1964 applies.

(C) EMPLOYMENT AGENCY; LABOR ORGANIZATION.—The terms ''employment agency'' and ''labor organization'' have the meanings given the terms in section 701 of the Civil Rights Act of 1964 (42 U.S.C. 2000e).

(D) MEMBER.—The term ''member'', with respect to a labor organization, includes an applicant for membership in a labor organization.

(3) FAMILY MEMBER.—The term ''family member'' means with respect to an individual—

(A) the spouse of the individual;

(B) a dependent child of the individual, including a child who is born to or placed for adoption with the individual; and

(C) all other individuals related by blood to the individual or the spouse or child described in subparagraph (A) or (B).

(4) GENETIC INFORMATION.—

(A) IN GENERAL.—Except as provided in subparagraph (B), the term ''genetic information'' means information about—

(i) an individual's genetic tests;

(ii) the genetic tests of family members of the individual; or

(iii) the occurrence of a disease or disorder in family members of the individual.

(B) EXCEPTIONS.—The term ''genetic information'' shall not include information about the sex or age of an individual.

(5) GENETIC MONITORING.—The term ''genetic monitoring'' means the periodic examination of employees to evaluate acquired modifications to their genetic material, such as chromosomal damage or evidence of increased occurrence of mutations, that may have developed in the course of employment due to exposure to toxic substances in the workplace, in order to identify, evaluate, and respond to the effects of or control adverse environmental exposures in the workplace.

(6) GENETIC SERVICES.—The term ''genetic services'' means—

(A) a genetic test;

(B) genetic counseling (such as obtaining, interpreting or assessing genetic information); or

(C) genetic education.

(7) GENETIC TEST.—

(A) IN GENERAL.—The term ''genetic test'' means the analysis of human DNA, RNA, chromosomes, proteins, or metabolites, that detects genotypes, mutations, or chromosomal changes.

(B) EXCEPTION.—The term ''genetic test'' does not mean an analysis of proteins or metabolites that does not detect genotypes, mutations, or chromosomal changes.

SEC. 202. EMPLOYER PRACTICES.

(a) USE OF GENETIC INFORMATION.—It shall be an unlawful employment practice for an employer—

(1) to fail or refuse to hire or to discharge any employee, or otherwise to discriminate against any employee with respect to the compensation, terms, conditions, or privileges of employment of the employee, because of genetic information with respect to the employee (or information about a request for or the receipt of genetic services by such employee or family member of such employee); or

(2) to limit, segregate, or classify the employees of the employer in any way that would deprive or tend to deprive any employee of employment opportunities or otherwise adversely affect the status of the employee as an employee, because of genetic information with respect to the employee (or information about a request for or the receipt of genetic services by such employee or family member of such employee).

(b) ACQUISITION OF GENETIC INFORMATION.—It shall be an unlawful employment practice for an employer to request, require, or purchase genetic information with respect to an employee or a family member of the employee (or information about a request for the receipt of genetic services by such employee or a family member of such employee) except—

(1) where an employer inadvertently requests or requires family medical history of the employee or family member of the employee;

(2) where—

(A) health or genetic services are offered by the employer, including such services offered as part of a bona fide wellness program;

(B) the employee provides prior, knowing, voluntary, and written authorization;

(C) only the employee (or family member if the family member is receiving genetic services) and the licensed health care professional or board certified genetic counselor involved in providing such services receive individually identifiable information concerning the results of such services; and

(D) any individually identifiable genetic information provided under subparagraph (C) in connection with the services provided under subparagraph (A) is only available for purposes of such services and shall not be

disclosed to the employer except in aggregate terms that do not disclose the identity of specific employees;

(3) where an employer requests or requires family medical history from the employee to comply with the certification provisions of section 103 of the Family and Medical Leave Act of 1993 (29 U.S.C. 2613) or such requirements under State family and medical leave laws;

(4) where an employer purchases documents that are commercially and publicly available (including newspapers, magazines, periodicals, and books, but not including medical databases or court records) that include family medical history; or

(5) where the information involved is to be used for genetic monitoring of the biological effects of toxic substances in the workplace, but only if—

(A) the employer provides written notice of the genetic monitoring to the employee;

(B)(i) the employee provides prior, knowing, voluntary, and written authorization; or

(ii) the genetic monitoring is required by Federal or State law;

(C) the employee is informed of individual monitoring results;

(D) the monitoring is in compliance with—

(i) any Federal genetic monitoring regulations, including any such regulations that may be promulgated by the Secretary of Labor pursuant to the Occupational Safety and Health Act of 1970 (29 U.S.C. 651 et seq.), the Federal Mine Safety and Health Act of 1977 (30 U.S.C. 801 et seq.), or the Atomic Energy Act of 1954 (42 U.S.C. 2011 et seq.); or

(ii) State genetic monitoring regulations, in the case of a State that is implementing genetic monitoring regulations under the authority of the Occupational Safety and Health Act of 1970 (29 U.S.C. 651 et seq.); and

(E) the employer, excluding any licensed health care professional or board certified genetic counselor that is involved in the genetic monitoring program, receives the results of the monitoring only in aggregate terms that do not disclose the identity of specific employees;

(c) PRESERVATION OF PROTECTIONS.—In the case of information to which any of paragraphs (1) through (5) of subsection (b) applies, such information may not be used in violation of paragraph (1) or (2) of subsection (a) or treated or disclosed in a manner that violates section 206.

SEC. 203. EMPLOYMENT AGENCY PRACTICES.

(a) USE OF GENETIC INFORMATION.—It shall be an unlawful employment practice for an employment agency—

(1) to fail or refuse to refer for employment, or otherwise to discriminate against, any individual because of genetic information with respect to the individual (or information about a request for or the receipt of genetic services by such individual or family member of such individual);

(2) to limit, segregate, or classify individuals or fail or refuse to refer for employment any individual in any way that would deprive or tend to deprive any individual of employment opportunities, or otherwise adversely affect the status of the individual as an employee, because of genetic information with respect to the individual (or information about a request for or the receipt of genetic services by such individual or family member of such individual); or

(3) to cause or attempt to cause an employer to discriminate against an individual in violation of this title.

(b) ACQUISITION OF GENETIC INFORMATION.—It shall be an unlawful employment practice for an employment agency to request, require, or purchase genetic information with respect to an individual or a family member of the individual (or information about a request for the receipt of genetic services by such individual or a family member of such individual) except—

(1) where an employment agency inadvertently requests or requires family medical history of the individual or family member of the individual;

(2) where—

(A) health or genetic services are offered by the employment agency, including such services offered as part of a bona fide wellness program;

(B) the individual provides prior, knowing, voluntary, and written authorization;

(C) only the individual (or family member if the family member is receiving genetic services) and the licensed health care professional or board certified genetic counselor involved in providing such services receive individually identifiable information concerning the results of such services; and

(D) any individually identifiable genetic information provided under subparagraph (C) in connection with the services provided under subparagraph (A) is only available for purposes of such services and shall not be disclosed to the employment agency except in aggregate terms that do not disclose the identity of specific individuals;

(3) where an employment agency requests or requires family medical history from the individual to comply with the certification provisions of section 103 of the Family and Medical Leave Act of 1993 (29 U.S.C. 2613) or such requirements under State family and medical leave laws;

(4) where an employment agency purchases documents that are commercially and publicly available (including newspapers, magazines, periodicals, and books, but not including medical databases or court records) that include family medical history; or

(5) where the information involved is to be used for genetic monitoring of the biological effects of toxic substances in the workplace, but only if—

(A) the employment agency provides written notice of the genetic monitoring to the individual;

(B)(i) the individual provides prior, knowing, voluntary, and written authorization; or

(ii) the genetic monitoring is required by Federal or State law;

(C) the individual is informed of individual monitoring results;

(D) the monitoring is in compliance with—

(i) any Federal genetic monitoring regulations, including any such regulations that may be promulgated by the Secretary of Labor pursuant to the Occupational Safety and Health Act of 1970 (29 U.S.C. 651 et seq.), the Federal Mine Safety and Health Act of 1977 (30 U.S.C. 801 et seq.), or the Atomic Energy Act of 1954 (42 U.S.C. 2011 et seq.); or

(ii) State genetic monitoring regulations, in the case of a State that is implementing genetic monitoring regulations under the authority of the Occupational Safety and Health Act of 1970 (29 U.S.C. 651 et seq.); and

(E) the employment agency, excluding any licensed health care professional or board certified genetic counselor that is involved in the genetic monitoring program, receives the results of the monitoring only in aggregate terms that do not disclose the identity of specific individuals;

(c) PRESERVATION OF PROTECTIONS.—In the case of information to which any of paragraphs (1) through (5) of subsection (b) applies, such information may not be used in violation of paragraph (1) or (2) of subsection (a) or treated or disclosed in a manner that violates section 206.

SEC. 204. LABOR ORGANIZATION PRACTICES.

(a) USE OF GENETIC INFORMATION.—It shall be an unlawful employment practice for a labor organization—

(1) to exclude or to expel from the membership of the organization, or otherwise to discriminate against, any member because of genetic information with respect to the member (or information about a request for or the receipt of genetic services by such member or family member of such member);

(2) to limit, segregate, or classify the members of the organization, or fail or refuse to refer for employment any member, in any way that would deprive or tend to deprive any member of employment opportunities, or otherwise adversely affect the status of the member as an employee, because of genetic information with respect to the member (or information about a request for or the receipt of genetic services by such member or family member of such member); or

(3) to cause or attempt to cause an employer to discriminate against a member in violation of this title.

(b) ACQUISITION OF GENETIC INFORMATION.—It shall be an unlawful employment practice for a labor organization to request, require, or purchase genetic information with respect to a member or a family member of the member (or information about a request for the receipt of genetic services by such member or a family member of such member) except—

(1) where a labor organization inadvertently requests or requires family medical history of the member or family member of the member;

(2) where—

(A) health or genetic services are offered by the labor organization, including such services offered as part of a bona fide wellness program;

(B) the member provides prior, knowing, voluntary, and written authorization;

(C) only the member (or family member if the family member is receiving genetic services) and the licensed health care professional or board certified genetic counselor involved in providing such services receive individually identifiable information concerning the results of such services; and

(D) any individually identifiable genetic information provided under subparagraph (C) in connection with the services provided under subparagraph (A) is only available for purposes of such services and shall not be disclosed to the labor organization except in aggregate terms that do not disclose the identity of specific members;

(3) where a labor organization requests or requires family medical history from the members to comply with the certification provisions of section 103 of the Family and Medical Leave Act of 1993 (29 U.S.C. 2613) or such requirements under State family and medical leave laws;

(4) where a labor organization purchases documents that are commercially and publicly available (including newspapers, magazines, periodicals, and books, but not including medical databases or court records) that include family medical history; or

(5) where the information involved is to be used for genetic monitoring of the biological effects of toxic substances in the workplace, but only if—

(A) the labor organization provides written notice of the genetic monitoring to the member;

(B)(i) the member provides prior, knowing, voluntary, and written authorization; or

(ii) the genetic monitoring is required by Federal or State law;

(C) the member is informed of individual monitoring results;

(D) the monitoring is in compliance with—

(i) any Federal genetic monitoring regulations, including any such regulations that may be promulgated by the Secretary of Labor pursuant to the Occupational Safety and Health Act of 1970 (29 U.S.C. 651 et seq.),

the Federal Mine Safety and Health Act of 1977 (30 U.S.C. 801 et seq.), or the Atomic Energy Act of 1954 (42 U.S.C. 2011 et seq.); or

(ii) State genetic monitoring regulations, in the case of a State that is implementing genetic monitoring regulations under the authority of the Occupational Safety and Health Act of 1970 (29 U.S.C. 651 et seq.); and

(E) the labor organization, excluding any licensed health care professional or board certified genetic counselor that is involved in the genetic monitoring program, receives the results of the monitoring only in aggregate terms that do not disclose the identity of specific members;

(c) PRESERVATION OF PROTECTIONS.—In the case of information to which any of paragraphs (1) through (5) of subsection (b) applies, such information may not be used in violation of paragraph (1) or (2) of subsection (a) or treated or disclosed in a manner that violates section 206.

SEC. 205. TRAINING PROGRAMS.

(a) USE OF GENETIC INFORMATION.—It shall be an unlawful employment practice for any employer, labor organization, or joint labor-management committee controlling apprenticeship or other training or retraining, including on-the-job training programs—

(1) to discriminate against any individual because of genetic information with respect to the individual (or information about a request for or the receipt of genetic services by such individual or a family member of such individual) in admission to, or employment in, any program established to provide apprenticeship or other training or retraining;

(2) to limit, segregate, or classify the applicants for or participants in such apprenticeship or other training or retraining, or fail or refuse to refer for employment any individual, in any way that would deprive or tend to deprive any individual of employment opportunities, or otherwise adversely affect the status of the individual as an employee, because of genetic information with respect to the individual (or information about a request for or receipt of genetic services by such individual or family member of such individual); or

(3) to cause or attempt to cause an employer to discriminate against an applicant for or a participant in such apprenticeship or other training or retraining in violation of this title.

(b) ACQUISITION OF GENETIC INFORMATION.—It shall be an unlawful employment practice for an employer, labor organization, or joint labor-management committee described in subsection (a) to request, require, or purchase genetic information with respect to an individual or a family member of the individual (or information about a request for the receipt of genetic services by such individual or a family member of such individual) except—

(1) where the employer, labor organization, or joint labor-management committee inadvertently requests or requires family medical history of the individual or family member of the individual;

(2) where—

(A) health or genetic services are offered by the employer, labor organization, or joint labor-management committee, including such services offered as part of a bona fide wellness program;

(B) the individual provides prior, knowing, voluntary, and written authorization;

(C) only the individual (or family member if the family member is receiving genetic services) and the licensed health care professional or board certified genetic counselor involved in providing such services receive individually identifiable information concerning the results of such services;

(D) any individually identifiable genetic information provided under subparagraph (C) in connection with the services provided under subparagraph (A) is only available for purposes of such services and shall not be disclosed to the employer, labor organization, or joint labor-management committee except in aggregate terms that do not disclose the identity of specific individuals;

(3) where the employer, labor organization, or joint labor-management committee requests or requires family medical history from the individual to comply with the certification provisions of section 103 of the Family and Medical Leave Act of 1993 (29 U.S.C. 2613) or such requirements under State family and medical leave laws;

(4) where the employer, labor organization, or joint labor-management committee purchases documents that are commercially and publicly available (including newspapers, magazines, periodicals, and books, but not including medical databases or court records) that include family medical history; or

(5) where the information involved is to be used for genetic monitoring of the biological effects of toxic substances in the workplace, but only if—

(A) the employer, labor organization, or joint labor-management committee provides written notice of the genetic monitoring to the individual;

(B)(i) the individual provides prior, knowing, voluntary, and written authorization; or

(ii) the genetic monitoring is required by Federal or State law;

(C) the individual is informed of individual monitoring results;

(D) the monitoring is in compliance with—

(i) any Federal genetic monitoring regulations, including any such regulations that may be promulgated by the Secretary of Labor pursuant to the Occupational Safety and Health Act of 1970 (29 U.S.C. 651 et seq.), the Federal Mine Safety and Health Act of 1977 (30 U.S.C. 801 et seq.), or the Atomic Energy Act of 1954 (42 U.S.C. 2011 et seq.); or

(ii) State genetic monitoring regulations, in the case of a State that is implementing genetic monitoring regulations under the authority of the Occupational Safety and Health Act of 1970 (29 U.S.C. 651 et seq.); and

(E) the employer, labor organization, or joint labor-management committee, excluding any licensed health care professional or board certified genetic counselor that is involved in the genetic monitoring program, receives the results of the monitoring only in aggregate terms that do not disclose the identity of specific individuals;

(c) PRESERVATION OF PROTECTIONS.—In the case of information to which any of paragraphs (1) through (5) of subsection (b) applies, such information may not be used in violation of paragraph (1) or (2) of subsection (a) or treated or disclosed in a manner that violates section 206.

SEC. 206. CONFIDENTIALITY OF GENETIC INFORMATION.

(a) TREATMENT OF INFORMATION AS PART OF CONFIDENTIAL MEDICAL RECORD.—If an employer, employment agency, labor organization, or joint labor-management committee possesses genetic information about an employee or member (or information about a request for or receipt of genetic services by such employee or member or family member of such employee or member), such information shall be maintained on separate forms and in separate medical files and be treated as a confidential medical record of the employee or member.

(b) LIMITATION ON DISCLOSURE.—An employer, employment agency, labor organization, or joint labor-management committee shall not disclose genetic information concerning an employee or member (or information about a request for or receipt of genetic services by such employee or member or family member of such employee or member) except—

(1) to the employee (or family member if the family member is receiving the genetic services) or member of a labor organization at the request of the employee or member of such organization;

(2) to an occupational or other health researcher if the research is conducted in compliance with the regulations and protections provided for under part 46 of title 45, Code of Federal Regulations;

(3) in response to an order of a court, except that—

(A) the employer, employment agency, labor organization, or joint labor-management committee may disclose only the genetic information expressly authorized by such order; and

(B) if the court order was secured without the knowledge of the employee or member to whom the information refers, the employer, employment agency, labor organization, or joint labor-management committee shall provide the employee or member with adequate notice to challenge the court order;

(4) to government officials who are investigating compliance with this title if the information is relevant to the investigation; or

(5) to the extent that such disclosure is made in connection with the employee's compliance with the certification provisions of section 103 of the Family and Medical Leave Act of 1993 (29 U.S.C. 2613) or such requirements under State family and medical leave laws.

SEC. 207. REMEDIES AND ENFORCEMENT.

(a) EMPLOYEES COVERED BY TITLE VII OF THE CIVIL RIGHTS ACT OF 1964.—

(1) IN GENERAL.—The powers, remedies, and procedures provided in sections 705, 706, 707, 709, 710, and 711 of the Civil Rights Act of 1964 (42 U.S.C. 2000e–4 et seq.) to the Commission, the Attorney General, or any person, alleging a violation of title VII of that Act (42 U.S.C. 2000e et seq.) shall be the powers, remedies, and procedures this title provides to the Commission, the Attorney General, or any person, respectively, alleging an unlawful employment practice in violation of this title against an employee described in section 201(2)(A)(i), except as provided in paragraphs (2) and (3).

(2) COSTS AND FEES.—The powers, remedies, and procedures provided in subsections (b) and (c) of section 722 of the Revised Statutes (42 U.S.C. 1988), shall be powers, remedies, and procedures this title provides to the Commission, the Attorney General, or any person, alleging such a practice.

(3) DAMAGES.—The powers, remedies, and procedures provided in section 1977A of the Revised Statutes (42 U.S.C. 1981a), including the limitations contained in subsection (b)(3) of such section 1977A, shall be powers, remedies, and procedures this title provides to the Commission, the Attorney General, or any person, alleging such a practice (not an employment practice specifically excluded from coverage under section 1977A(a)(1) of the Revised Statutes).

(b) EMPLOYEES COVERED BY GOVERNMENT EMPLOYEE RIGHTS ACT OF 1991.—

(1) IN GENERAL.—The powers, remedies, and procedures provided in sections 302 and 304 of the Government Employee Rights Act of 1991 (42 U.S.C. 2000e-16b, 2000e-16c) to the Commission, or any person, alleging a violation of section 302(a)(1) of that Act (42 U.S.C. 2000e-16b(a)(1)) shall be the powers, remedies, and procedures this title provides to the Commission, or any person, respectively, alleging an unlawful employment practice in violation of this title against an employee described in section 201(2)(A)(ii), except as provided in paragraphs (2) and (3).

(2) COSTS AND FEES.—The powers, remedies, and procedures provided in subsections (b)

and (c) of section 722 of the Revised Statutes (42 U.S.C. 1988), shall be powers, remedies, and procedures this title provides to the Commission, or any person, alleging such a practice.

(3) DAMAGES.—The powers, remedies, and procedures provided in section 1977A of the Revised Statutes (42 U.S.C. 1981a), including the limitations contained in subsection (b)(3) of such section 1977A, shall be powers, remedies, and procedures this title provides to the Commission, or any person, alleging such a practice (not an employment practice specifically excluded from coverage under section 1977A(a)(1) of the Revised Statutes).

(c) EMPLOYEES COVERED BY CONGRESSIONAL ACCOUNTABILITY ACT OF 1995.—

(1) IN GENERAL.—The powers, remedies, and procedures provided in the Congressional Accountability Act of 1995 (2 U.S.C. 1301 et seq.) to the Board (as defined in section 101 of that Act (2 U.S.C. 1301)), or any person, alleging a violation of section 201(a)(1) of that Act (42 U.S.C. 1311(a)(1)) shall be the powers, remedies, and procedures this title provides to that Board, or any person, alleging an unlawful employment practice in violation of this title against an employee described in section 201(2)(A)(iii), except as provided in paragraphs (2) and (3).

(2) COSTS AND FEES.—The powers, remedies, and procedures provided in subsections (b) and (c) of section 722 of the Revised Statutes (42 U.S.C. 1988), shall be powers, remedies, and procedures this title provides to that Board, or any person, alleging such a practice.

(3) DAMAGES.—The powers, remedies, and procedures provided in section 1977A of the Revised Statutes (42 U.S.C. 1981a), including the limitations contained in subsection (b)(3) of such section 1977A, shall be powers, remedies, and procedures this title provides to that Board, or any person, alleging such a practice (not an employment practice specifically excluded from coverage under section 1977A(a)(1) of the Revised Statutes).

(4) OTHER APPLICABLE PROVISIONS.—With respect to a claim alleging a practice described in paragraph (1), title III of the Congressional Accountability Act of 1995 (2 U.S.C. 1381 et seq.) shall apply in the same manner as such title applies with respect to a claim alleging a violation of section 201(a)(1) of such Act (2 U.S.C. 1311(a)(1)).

(d) EMPLOYEES COVERED BY CHAPTER 5 OF TITLE 3, UNITED STATES CODE.—

(1) IN GENERAL.—The powers, remedies, and procedures provided in chapter 5 of title 3, United States Code, to the President, the Commission, the Merit Systems Protection Board, or any person, alleging a violation of section 411(a)(1) of that title, shall be the powers, remedies, and procedures this title provides to the President, the Commission, such Board, or any person, respectively, alleging an unlawful employment practice in violation of this title against an employee described in section 201(2)(A)(iv), except as provided in paragraphs (2) and (3).

(2) COSTS AND FEES.—The powers, remedies, and procedures provided in subsections (b) and (c) of section 722 of the Revised Statutes (42 U.S.C. 1988), shall be powers, remedies, and procedures this title provides to the the President, the Commission, such Board, or any person, alleging such a practice.

(3) DAMAGES.—The powers, remedies, and procedures provided in section 1977A of the Revised Statutes (42 U.S.C. 1981a), including the limitations contained in subsection (b)(3) of such section 1977A, shall be powers, remedies, and procedures this title provides to the President, the Commission, such Board, or any person, alleging such a practice (not an employment practice specifically excluded from coverage under section 1977A(a)(1) of the Revised Statutes).

(e) EMPLOYEES COVERED BY SECTION 717 OF THE CIVIL RIGHTS ACT OF 1964.—

(1) IN GENERAL.—The powers, remedies, and procedures provided in section 717 of the Civil Rights Act of 1964 (42 U.S.C. 2000e–16) to the Commission, the Attorney General, the Librarian of Congress, or any person, alleging a violation of that section shall be the powers, remedies, and procedures this title provides to the Commission, the Attorney General, the Librarian of Congress, or any person, respectively, alleging an unlawful employment practice in violation of this title against an employee or applicant described in section 201(2)(A)(v), except as provided in paragraphs (2) and (3).

(2) COSTS AND FEES.—The powers, remedies, and procedures provided in subsections (b) and (c) of section 722 of the Revised Statutes (42 U.S.C. 1988), shall be powers, remedies, and procedures this title provides to the Commission, the Attorney General, the Librarian of Congress, or any person, alleging such a practice.

(3) DAMAGES.—The powers, remedies, and procedures provided in section 1977A of the Revised Statutes (42 U.S.C. 1981a), including the limitations contained in subsection (b)(3) of such section 1977A, shall be powers, remedies, and procedures this title provides to the Commission, the Attorney General, the Librarian of Congress, or any person, alleging such a practice (not an employment practice specifically excluded from coverage under section 1977A(a)(1) of the Revised Statutes).

(f) DEFINITION.—In this section, the term ''Commission'' means the Equal Employment Opportunity Commission.

SEC. 208. DISPARATE IMPACT.

(a) GENERAL RULE.—Notwithstanding any other provision of this Act, ''disparate impact'', as that term is used in section 703(k) of the Civil Rights Act of 1964 (42 U.S.C. 2000e-d(k)), on the basis of genetic information does not establish a cause of action under this Act.

(b) COMMISSION.—On the date that is 6 years after the date of enactment of this Act, there shall be established a commission, to be known as the Genetic Nondiscrimination Study Commission (referred to in this section as the ''Commission'') to review the developing science of genetics and to make recommendations to Congress regarding whether to provide a disparate impact cause of action under this Act.

(c) MEMBERSHIP.—

(1) IN GENERAL.—The Commission shall be composed of 8 members, of which—

(A) 1 member shall be appointed by the Majority Leader of the Senate;

(B) 1 member shall be appointed by the Minority Leader of the Senate;

(C) 1 member shall be appointed by the Chairman of the Committee on Health, Education, Labor, and Pensions of the Senate;

(D) 1 member shall be appointed by the ranking minority member of the Committee on Health, Education, Labor, and Pensions of the Senate;

(E) 1 member shall be appointed by the Speaker of the House of Representatives;

(F) 1 member shall be appointed by the Minority Leader of the House of Representatives;

(G) 1 member shall be appointed by the Chairman of the Committee on Education and the Workforce of the House of Representatives; and

(H) 1 member shall be appointed by the ranking minority member of the Committee on Education and the Workforce of the House of Representatives.

(2) COMPENSATION AND EXPENSES.—The members of the Commission shall not receive compensation for the performance of services for the Commission, but shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code, while away from their homes or regular places of business in the performance of services for the Commission.

(d) ADMINISTRATIVE PROVISIONS.—

(1) LOCATION.—The Commission shall be located in a facility maintained by the Equal Employment Opportunity Commission.

(2) DETAIL OF GOVERNMENT EMPLOYEES.—Any Federal Government employee may be detailed to the Commission without reimbursement, and such detail shall be without interruption or loss of civil service status or privilege.

(3) INFORMATION FROM FEDERAL AGENCIES.—The Commission may secure directly from any Federal department or agency such information as the Commission considers necessary to carry out the provisions of this section. Upon request of the Commission, the head of such department or agency shall furnish such information to the Commission.

(4) HEARINGS.—The Commission may hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence as the Commission considers advisable to carry out the objectives of this section, except that, to the extent possible, the Commission shall use existing data and research.

(5) POSTAL SERVICES.—The Commission may use the United States mails in the same manner and under the same conditions as other departments and agencies of the Federal Government.

(e) REPORT.—Not later than 1 year after all of the members are appointed to the Commission under subsection (c)(1), the Commission shall submit to Congress a report that summarizes the findings of the Commission and makes such recommendations for legislation as are consistent with this Act.

(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Equal Employment Opportunity Commission such sums as may be necessary to carry out this section.

SEC. 209. CONSTRUCTION.

Nothing in this title shall be construed to—

(1) limit the rights or protections of an individual under the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.), including coverage afforded to individuals under section 102 of such Act (42 U.S.C. 12112), or under the Rehabilitation Act of 1973 (29 U.S.C. 701 et seq.);

(2)(A) limit the rights or protections of an individual to bring an action under this title against an employer, employment agency, labor organization, or joint labor-management committee for a violation of this title; or

(B) establish a violation under this title for an employer, employment agency, labor organization, or joint labor-management committee of a provision of the amendments made by title I;

(3) limit the rights or protections of an individual under any other Federal or State statute that provides equal or greater protection to an individual than the rights or protections provided for under this title;

(4) apply to the Armed Forces Repository of Specimen Samples for the Identification of Remains;

(5) limit or expand the protections, rights, or obligations of employees or employers under applicable workers' compensation laws;

(6) limit the authority of a Federal department or agency to conduct or sponsor occupational or other health research that is conducted in compliance with the regulations

contained in part 46 of title 45, Code of Federal Regulations (or any corresponding or similar regulation or rule); and

(7) limit the statutory or regulatory authority of the Occupational Safety and Health Administration or the Mine Safety and Health Administration to promulgate or enforce workplace safety and health laws and regulations.

SEC. 210. MEDICAL INFORMATION THAT IS NOT GENETIC INFORMATION.

An employer, employment agency, labor organization, or joint labor-management committee shall not be considered to be in violation of this title based on the use, acquisition, or disclosure of medical information that is not genetic information about a manifested disease, disorder, or pathological condition of an employee or member, including a manifested disease, disorder, or pathological condition that has or may have a genetic basis.

SEC. 211. REGULATIONS.

Not later than 1 year after the date of enactment of this title, the Commission shall issue final regulations in an accessible format to carry out this title.

SEC. 212. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as may be necessary to carry out this title (except for section 208).

SEC. 213. EFFECTIVE DATE.

This title takes effect on the date that is 18 months after the date of enactment of this Act.

TITLE III—MISCELLANEOUS PROVISION

SEC. 301. SEVERABILITY.

If any provision of this Act, an amendment made by this Act, or the application of such provision or amendment to any person or circumstance is held to be unconstitutional, the remainder of this Act, the amendments made by this Act, and the application of such provisions to any person or circumstance shall not be affected thereby.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

Mr. STEVENS. Mr. President, I ask unanimous consent that the Committee on Banking, Housing, and Urban Affairs be authorized to meet during the session of the Senate on October 2, 2003, at 10 a.m. to conduct a hearing on ''The Implementation of the Sarbanes-Oxley Act and Restoring Investor Confidence.''

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

Mr. STEVENS. Mr. President, I ask unanimous consent that the Committee on Commerce, Science, and Transportation be authorized to meet on Thursday, October 2, 2003, at 9:30 a.m. on media ownership.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

Mr. STEVENS. Mr. President, I ask unanimous consent that the Committee on Commerce, Science, and Transportation be authorized to meet on Thursday, October 2, 2003, at 2:30 p.m. on Amtrak.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FOREIGN RELATIONS

Mr. STEVENS. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Thursday, October 2, 2003 at 1:30 a.m. to hold a Business Meeting.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FOREIGN RELATIONS

Mr. STEVENS. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Thursday, October 2, 2003 at 2:30 p.m. to hold a hearing on U.S. Policy Toward Cuba.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON GOVERNMENTAL AFFAIRS

Mr. STEVENS. Mr. President, I ask unanimous consent that the Committee on Governmental Affairs be authorized to meet on Thursday, October 2, 2003 at a time and location to be determined to hold a business meeting to consider the nomination of C. Suzanne Mencer to be Director, Office for Domestic Preparedness, Department of Homeland Security.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON HEALTH EDUCATION, LABOR AND PENSIONS

Mr. STEVENS. Mr. President, I ask unanimous consent that the Committee on Health, Education, Labor, and Pensions and House Committee on Energy and Commerce be authorized to meet for a Joint hearing on Managing Biomedical Research to Prevent and Cure Disease in the 21st Century: Matching NIH Policy with Science during the session of the Senate on Thursday, October 2, 2003 at 10 a.m. in SD–106.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON THE JUDICIARY

Mr. STEVENS. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet to conduct a markup on Thursday, October 2, 2003, at 9:30 a.m. in Dirksen Room 226.

Agenda

I. Nominations: Henry W. Saad to be United States Circuit Judge for the Sixth Circuit; Charles W. Pickering, Sr. to be United States Circuit Judge for the Fifth Circuit; Margaret Catharine Rodgers to be United States District Judge for the Northern District of Florida; Roger W. Titus to be United States District Judge for the District of Maryland; George W. Miller to be Judge for the United States Court of Federal Claims; Karin J. Immergut to be United States Attorney for the District of Oregon; and Deborah Ann Spagnoli to be United States Parole Commissioner.

II. Bills: S. 1580. Religious Workers Act of 2003 [Hatch, Kennedy, DeWine] and S. 1545. Development, Relief, and Education for Alien Minors Act of 2003 (the DREAM Act) [Hatch, Durbin, Craig, DeWine, Feingold, Feinstein, Grassley, Kennedy, Leahy, Schumer].

The PRESIDING OFFICER. Without objection, it is so ordered.

SELECT COMMITTEE ON INTELLIGENCE

Mr. STEVENS. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on Thursday, October 2, 2003 at 2:30 p.m. to hold a closed hearing.

SUBCOMMITTEE ON NATIONAL PARKS

Mr. STEVENS. Mr. President, I ask unanimous consent that the Subcommittee on National Parks of the Committee on Energy and Natural Resources be authorized to meet during the session of the Senate on Thursday, October 2, 2003 at 10:00 a.m.

The purpose of the hearing is to receive testimony on the following bills: S. 524, to expand the boundaries of the Fort Donelson National Battlefield to authorize the acquisition and interpretation of lands associated with the campaign that resulted in the capture of the fort in 1862, and for other purposes; S. 1313, to establish the Congaree Swamp National Park in the State of South Carolina, and other purposes; S. 1472, to authorize the Secretary of the Interior to provide for the construction of a statue of Harry S. Truman at Union Station in Kansas City, MO; and S. 1576, to revise the boundary of Harpers Ferry National Historic Park, and for other purposes.

PRIVILEGE OF THE FLOOR

Mr. MCCONNELL. Mr. President, I ask unanimous consent Denese Merritt, a congressional fellow with Senator SMITH, be granted the privilege of the floor for the duration of the debate on the Iraq supplemental.

Mr. PRESIDENT. Without objection, it is so ordered.

GENETIC INFORMATION NONDISCRIMINATION ACT OF 2003

Mr. FRIST. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 247, S. 1053, the Genetic Information Nondiscrimination Act; that the committee-reported substitute amendment be agreed to and treated as original text for purposes of further amendment, and the Snowe substitute, which is at the desk, be agreed to; further, that there be 30 minutes of debate equally divided in the usual form under the control of the chairman and ranking members of the HELP Committee or their designees; that no other amendments be in order; further, that upon the use or yielding back of time the bill be read a third time; that at 2:15 p.m. on Tuesday, October 14, the Senate resume consideration of S. 1053 and there be 15 minutes of debate equally divided, followed by a vote on passage of the bill, all without intervening action or debate.

The ACTING PRESIDENT pro tempore. Is there objection?

Mr. REID. No objection.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The clerk will report the bill by title.

The assistant legislative clerk read as follows:

A bill (S. 1053) to prohibit discrimination on the basis of genetic information with respect to health insurance and employment.

There being no objection, the Senate proceeded to consider the bill which had been reported from the Committee on Health, Education, Labor, and Pensions, with an amendment to strike all after the enacting clause and inserting in lieu thereof the following:

S. 1053

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

[SECTION 1. SHORT TITLE.

[This Act may be cited as the ''Genetic Information Nondiscrimination Act of 2003''.

[TITLE I—GENETIC NONDISCRIMINATION IN HEALTH INSURANCE

[SEC. 101. AMENDMENTS TO EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974.

[(a) PROHIBITION OF HEALTH DISCRIMINATION ON THE BASIS OF GENETIC INFORMATION OR GENETIC SERVICES.—

[(1) NO ENROLLMENT RESTRICTION FOR GENETIC SERVICES.—Section 702(a)(1)(F) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1182(a)(1)(F)) is amended by inserting before the period the following: ''(including information about a request for or receipt of genetic services)''.

[(2) NO DISCRIMINATION IN GROUP PREMIUMS BASED ON GENETIC INFORMATION.—Section 702(b) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1182(b)) is amended by adding at the end the following:

[''(3) NO DISCRIMINATION IN GROUP PREMIUMS BASED ON GENETIC INFORMATION.—For purposes of this section, a group health plan, or a health insurance issuer offering group health insurance coverage in connection with a group health plan, shall not adjust premium or contribution amounts for a group on the basis of genetic information concerning an individual in the group or a family member of the individual (including information about a request for or receipt of genetic services).

[(b) LIMITATIONS ON GENETIC TESTING AND THE COLLECTION OF GENETIC INFORMATION.—Section 702 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1182) is amended by adding at the end the following:

[''(c) GENETIC TESTING.—

[''(1) LIMITATION ON REQUESTING OR REQUIRING GENETIC TESTING.—A group health plan, or a health insurance issuer offering health insurance coverage in connection with a group health plan, shall not request or require an individual or a family member of such individual to undergo a genetic test.

[''(2) RULE OF CONSTRUCTION.—Nothing in this part shall be construed to limit the authority of a health care professional, who is providing health care services with respect to an individual or who is acting on behalf of a group health plan or a health insurance issuer, to request that such individual or a family member of such individual undergo a genetic test. Such a health care professional shall not require that such individual or family member undergo a genetic test.

[''(d) COMPLIANCE WITH CERTAIN CONFIDENTIALITY STANDARDS WITH RESPECT TO GENETIC INFORMATION.—With respect to the use or disclosure of genetic information by a group health plan, or a health insurance issuer offering health insurance coverage in connection with a group health plan, such information shall be deemed to be protected health information for purposes of, and shall be subject to, the standards promulgated by the Secretary of Health and Human Services under—

[''(1) part C of title XI of the Social Security Act (42 U.S.C. 1320d et seq.); or

[''(2) section 264(c) of the Health Insurance Portability and Accountability Act of 1996 (Public Law 104–191; 110 Stat. 2033).

[''(e) COLLECTION OF GENETIC INFORMATION.—

[''(1) LIMITATION ON REQUESTING OR REQUIRING GENETIC INFORMATION.—Except as provided in paragraph (2), a group health plan, or a health insurance issuer offering health insurance coverage in connection with a group health plan, shall not request or require genetic information concerning an individual or a family member of the individual (including information about a request for or receipt of genetic services).

[''(2) INFORMATION NEEDED FOR TREATMENT, PAYMENT, AND HEALTH CARE OPERATIONS.—Notwithstanding paragraph (1), a group health plan, or a health insurance issuer offering health insurance coverage in connection with a group health plan, that provides health care items and services to an individual may request genetic information concerning such individual or dependent for purposes of treatment, payment, or health care operations in accordance with the standards for protected health information described in subsection (d) to the extent that the use of such information is otherwise consistent with this section.

[''(3) FAILURE TO PROVIDE NECESSARY INFORMATION.—If an individual or dependent refuses to provide the information requested under paragraph (2), and such information is for treatment, payment, or health care operations relating to the individual, the group health plan or health insurance issuer requesting such information shall not be required to provide coverage for the items, services, or treatments with respect to which the requested information relates in any action under part 5.''.

[(c) DEFINITIONS.—Section 733(d) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1191b(d)) is amended by adding at the end the following:

[''(5) FAMILY MEMBER.—The term 'family member' means with respect to an individual—

[''(A) the spouse of the individual;

[''(B) a dependent child of the individual, including a child who is born to or placed for adoption with the individual; and

[''(C) all other individuals related by blood to the individual or the spouse or child described in subparagraph (A) or (B).

[''(6) GENETIC INFORMATION.—

[''(A) IN GENERAL.—Except as provided in subparagraph (B), the term 'genetic information' means information—

[''(i) concerning—

[''(I) the genetic tests of an individual;

[''(II) the genetic tests of family members of the individual; or

[''(III) the occurrence of a disease or disorder in family members of the individual; and

[''(ii) that is used to predict risk of disease in asymptomatic or undiagnosed individuals.

[''(B) EXCEPTIONS.—The term 'genetic information' shall not include—

[''(i) information about the sex or age of the individual;

[''(ii) information derived from clinical and laboratory tests, such as the chemical, blood, or urine analyses of the individual including cholesterol tests, used to determine health status or detect illness or diagnose disease; and

[''(iii) information about physical exams of the individual.

[''(7) GENETIC SERVICES.—The term 'genetic services' means health services provided for genetic education and counseling.

[''(8) GENETIC TEST.—The term 'genetic test' means the analysis of human DNA, RNA, chromosomes, proteins, and metabolites, that detect genotypes, mutations, or chromosomal changes. Such term does not include information described in paragraph (6)(B).''.

[(d) REGULATIONS AND EFFECTIVE DATE.—

[(1) REGULATIONS.—Not later than 1 year after the date of enactment of this title, the Secretary of Labor shall issue final regulations in an accessible format to carry out the amendments made by this section.

[(2) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to group health plans for plan years beginning after the date that is 18 months after the date of enactment of this title.

[SEC. 102. AMENDMENTS TO THE PUBLIC HEALTH SERVICE ACT.

[(a) AMENDMENTS RELATING TO THE GROUP MARKET.—

[(1) PROHIBITION OF HEALTH DISCRIMINATION ON THE BASIS OF GENETIC INFORMATION OR GENETIC SERVICES.—

[(A) NO ENROLLMENT RESTRICTION FOR GENETIC SERVICES.—Section 2702(a)(1)(F) of the Public Health Service Act (42 U.S.C. 300gg–1(a)(1)(F)) is amended by inserting before the period the following: ''(including information about a request for or receipt of genetic services)''.

[(B) NO DISCRIMINATION IN GROUP PREMIUMS BASED ON GENETIC INFORMATION.—Section 2702(b) of the Public Health Service Act (42 U.S.C. 300gg–1(b)) is amended by adding at the end the following:

[''(3) NO DISCRIMINATION IN GROUP PREMIUMS BASED ON GENETIC INFORMATION.—For purposes of this section, a group health plan, or a health insurance issuer offering group health insurance coverage in connection with a group health plan, shall not adjust premium or contribution amounts for a group on the basis of genetic information concerning an individual in the group or a family member of the individual (including information about a request for or receipt of genetic services).''.

[(2) LIMITATIONS ON GENETIC TESTING AND THE COLLECTION OF GENETIC INFORMATION.—Section 2702 of the Public Health Service Act (42 U.S.C. 300gg–1) is amended by adding at the end the following:

[''(c) GENETIC TESTING.—

[''(1) LIMITATION ON REQUESTING OR REQUIRING GENETIC TESTING.—A group health plan, or a health insurance issuer offering health insurance coverage in connection with a group health plan, shall not request or require an individual or a family member of such individual to undergo a genetic test.

[''(2) RULE OF CONSTRUCTION.—Nothing in this part shall be construed to limit the authority of a health care professional, who is providing health care services with respect to an individual or who is acting on behalf of a group health plan or a health insurance issuer, to request that such individual or a family member of such individual undergo a genetic test. Such a health care professional shall not require that such individual or family member undergo a genetic test.

[''(d) COMPLIANCE WITH CERTAIN CONFIDENTIALITY STANDARDS WITH RESPECT TO GENETIC INFORMATION.—With respect to the use or disclosure of genetic information by a group health plan, or a health insurance issuer offering health insurance coverage in connection with a group health plan, such

information shall be deemed to be protected health information for purposes of, and shall be subject to, the standards promulgated by the Secretary of Health and Human Services under—

[''(1) part C of title XI of the Social Security Act (42 U.S.C. 1320d et seq.); or

[''(2) section 264(c) of the Health Insurance Portability and Accountability Act of 1996 (Public Law 104–191; 110 Stat. 2033).

[''(e) COLLECTION OF GENETIC INFORMATION.—

[''(1) LIMITATION ON REQUESTING OR REQUIRING GENETIC INFORMATION.—Except as provided in paragraph (2), a group health plan, or a health insurance issuer offering health insurance coverage in connection with a group health plan, shall not request or require genetic information concerning an individual or a family member of the individual (including information about a request for or receipt of genetic services).

[''(2) INFORMATION NEEDED FOR TREATMENT, PAYMENT, AND HEALTH CARE OPERATIONS.—Notwithstanding paragraph (1), a group health plan, or a health insurance issuer offering health insurance coverage in connection with a group health plan, that provides health care items and services to an individual may request genetic information concerning such individual or dependent for purposes of treatment, payment, or health care operations in accordance with the standards for protected health information described in subsection (d) to the extent that the use of such information is otherwise consistent with this section.

[''(3) FAILURE TO PROVIDE NECESSARY INFORMATION.—If an individual or dependent refuses to provide the information requested under paragraph (2), and such information is for treatment, payment, or health care operations relating to the individual, the group health plan or health insurance issuer requesting such information shall not be required to provide coverage for the items, services, or treatments with respect to which the requested information relates.''.

[(3) DEFINITIONS.—Section 2791(d) of the Public Health Service Act (42 U.S.C. 300gg–91(d)) is amended by adding at the end the following:

[''(15) FAMILY MEMBER.—The term 'family member' means with respect to an individual—

[''(A) the spouse of the individual;

[''(B) a dependent child of the individual, including a child who is born to or placed for adoption with the individual; and

[''(C) all other individuals related by blood to the individual or the spouse or child described in subparagraph (A) or (B).

[''(16) GENETIC INFORMATION.—

[''(A) IN GENERAL.—Except as provided in subparagraph (B), the term 'genetic information' means information—

[''(i) concerning—

[''(I) the genetic tests of an individual;

[''(II) the genetic tests of family members of the individual; or

[''(III) the occurrence of a disease or disorder in family members of the individual; and

[''(ii) that is used to predict risk of disease in asymptomatic or undiagnosed individuals.

[''(B) EXCEPTIONS.—The term 'genetic information' shall not include—

[''(i) information about the sex or age of the individual;

[''(ii) information derived from clinical and laboratory tests, such as the chemical, blood, or urine analyses of the individual including cholesterol tests, used to determine health status or detect illness or diagnose disease; and

[''(iii) information about physical exams of the individual.

[''(17) GENETIC SERVICES.—The term 'genetic services' means health services provided for genetic education and counseling.

[''(18) GENETIC TEST.—The term 'genetic test' means the analysis of human DNA, RNA, chromosomes, proteins, and metabolites, that detect genotypes, mutations, or chromosomal changes. Such term does not include information described in paragraph (16)(B).''.

[(b) AMENDMENT RELATING TO THE INDIVIDUAL MARKET.—The first subpart 3 of part B of title XXVII of the Public Health Service Act (42 U.S.C. 300gg–51 et seq.) (relating to other requirements) is amended—

[(1) by redesignating such subpart as subpart 2; and

[(2) by adding at the end the following:

[''SEC. 2753. PROHIBITION OF HEALTH DISCRIMINATION ON THE BASIS OF GENETIC INFORMATION.

[''(a) PROHIBITION ON GENETIC INFORMATION AS A CONDITION OF ELIGIBILITY.—A health insurance issuer offering health insurance coverage in the individual market may not use genetic information as a condition of eligibility of an individual to enroll in individual health insurance coverage (including information about a request for or receipt of genetic services).

[''(b) PROHIBITION ON GENETIC INFORMATION IN SETTING PREMIUM RATES.—For purposes of this section, a health insurance issuer offering health insurance coverage in the individual market shall not adjust premium or contribution amounts for an individual on the basis of genetic information concerning the individual or a family member of the individual (including information about a request for or receipt of genetic services).

[''(c) GENETIC TESTING.—

[''(1) LIMITATION ON REQUESTING OR REQUIRING GENETIC TESTING.—A health insurance issuer offering health insurance coverage in the individual market shall not request or require an individual or a family member of such individual to undergo a genetic test.

[''(2) RULE OF CONSTRUCTION.—Nothing in this part shall be construed to limit the authority of a health care professional, who is providing health care services with respect to an individual or who is acting on behalf of a health insurance issuer, to request that such individual or a family member of such individual undergo a genetic test. Such a health care professional shall not require that such individual or family member undergo a genetic test.

[''(d) COMPLIANCE WITH CERTAIN CONFIDENTIALITY STANDARDS WITH RESPECT TO GENETIC INFORMATION.—With respect to the use or disclosure of genetic information by a health insurance issuer offering health insurance coverage in the individual market, such information shall be deemed to be protected health information for purposes of, and shall be subject to, the standards promulgated by the Secretary of Health and Human Services under—

[''(1) part C of title XI of the Social Security Act (42 U.S.C. 1320d et seq.); or

[''(2) section 264(c) of the Health Insurance Portability and Accountability Act of 1996 (Public Law 104–191; 110 Stat. 2033).

[''(e) COLLECTION OF GENETIC INFORMATION.—

[''(1) LIMITATION ON REQUESTING OR REQUIRING GENETIC INFORMATION.—Except as provided in paragraph (2), a health insurance issuer offering health insurance coverage in the individual market shall not request or require genetic information concerning an individual or a family member of the individual (including information about a request for or receipt of genetic services).

[''(2) INFORMATION NEEDED FOR TREATMENT, PAYMENT, AND HEALTH CARE OPERATIONS.—Notwithstanding paragraph (1), a health insurance issuer offering health insurance coverage in the individual market that provides health care items and services to an individual may request genetic information concerning such individual or dependent for purposes of treatment, payment, or health care operations in accordance with the standards for protected health information described in subsection (d) to the extent that the use of such information is otherwise consistent with this section.

[''(3) FAILURE TO PROVIDE NECESSARY INFORMATION.—If an individual or dependent refuses to provide the information requested under paragraph (2), and such information is for treatment, payment, or health care operations relating to the individual, the health insurance issuer requesting such information shall not be required to provide coverage for the items, services, or treatments with respect to which the requested information relates.''.

[(c) REGULATIONS AND EFFECTIVE DATE.—

[(1) REGULATIONS.—Not later than 1 year after the date of enactment of this title, the Secretary of Labor and the Secretary of Health and Human Services (as the case may be) shall issue final regulations in an accessible format to carry out the amendments made by this section.

[(2) EFFECTIVE DATE.—The amendments made by this section shall apply—

[(A) with respect to group health plans, and health insurance coverage offered in connection with group health plans, for plan years beginning after the date that is 18 months after the date of enactment of this title; and

[(B) with respect to health insurance coverage offered, sold, issued, renewed, in effect, or operated in the individual market after the date that is 18 months after the date of enactment of this title.

[SEC. 103. AMENDMENTS TO THE INTERNAL REVENUE CODE OF 1986.

[(a) PROHIBITION OF HEALTH DISCRIMINATION ON THE BASIS OF GENETIC INFORMATION OR GENETIC SERVICES.—

[(1) NO ENROLLMENT RESTRICTION FOR GENETIC SERVICES.—Section 9802(a)(1)(F) of the Internal Revenue Code of 1986 is amended by inserting before the period the following: ''(including information about a request for or receipt of genetic services)''.

[(2) NO DISCRIMINATION IN GROUP PREMIUMS BASED ON GENETIC INFORMATION.—Section 9802(b) of the Internal Revenue Code of 1986 is amended by adding at the end the following:

[''(3) NO DISCRIMINATION IN GROUP PREMIUMS BASED ON GENETIC INFORMATION.—For purposes of this section, a group health plan shall not adjust premium or contribution amounts for a group on the basis of genetic information concerning an individual in the group or a family member of the individual (including information about a request for or receipt of genetic services).''.

[(b) LIMITATIONS ON GENETIC TESTING AND THE COLLECTION OF GENETIC INFORMATION.—Section 9802 of the Internal Revenue Code of 1986 is amended by adding at the end the following:

[''(d) GENETIC TESTING AND GENETIC SERVICES.—

[''(1) LIMITATION ON REQUESTING OR REQUIRING GENETIC TESTING.—A group health plan shall not request or require an individual or a family member of such individual to undergo a genetic test.

[''(2) RULE OF CONSTRUCTION.—Nothing in this part shall be construed to limit the authority of a health care professional, who is providing health care services with respect to an individual or who is acting on behalf of a group health plan, to request that such individual or a family member of such individual undergo a genetic test. Such a health

care professional shall not require that such individual or family member undergo a genetic test.

[''(e) COMPLIANCE WITH CERTAIN CONFIDENTIALITY STANDARDS WITH RESPECT TO GENETIC INFORMATION.—With respect to the use or disclosure of genetic information by a group health plan, such information shall be deemed to be protected health information for purposes of, and shall be subject to, the standards promulgated by the Secretary of Health and Human Services under—

[''(1) part C of title XI of the Social Security Act (42 U.S.C. 1320d et seq.); or

[''(2) section 264(c) of the Health Insurance Portability and Accountability Act of 1996 (Public Law 104–191; 110 Stat. 2033).

[''(f) COLLECTION OF GENETIC INFORMATION.—

[''(1) LIMITATION ON REQUESTING OR REQUIRING GENETIC INFORMATION.—Except as provided in paragraph (2), a group health plan shall not request or require genetic information concerning an individual or a family member of the individual (including information about a request for or receipt of genetic services).

[''(2) INFORMATION NEEDED FOR TREATMENT, PAYMENT, AND HEALTH CARE OPERATIONS.—Notwithstanding paragraph (1), a group health plan that provides health care items and services to an individual may request genetic information concerning such individual or dependent for purposes of treatment, payment, or health care operations in accordance with the standards for protected health information described in subsection (e) to the extent that the use of such information is otherwise consistent with this section.

[''(3) FAILURE TO PROVIDE NECESSARY INFORMATION.—If an individual or dependent refuses to provide the information requested under paragraph (2), and such information is for treatment, payment, or health care operations relating to the individual, the group health plan requesting such information shall not be required to provide coverage for the items, services, or treatments with respect to which the requested information relates.''.

[(c) DEFINITIONS.—Section 9832(d) of the Internal Revenue Code of 1986 is amended by adding at the end the following:

[''(6) FAMILY MEMBER.—The term 'family member' means with respect to an individual—

[''(A) the spouse of the individual;

[''(B) a dependent child of the individual, including a child who is born to or placed for adoption with the individual; and

[''(C) all other individuals related by blood to the individual or the spouse or child described in subparagraph (A) or (B).

[''(7) GENETIC INFORMATION.—

[''(A) IN GENERAL.—Except as provided in subparagraph (B), the term 'genetic information' means information—

[''(i) concerning—

[''(I) the genetic tests of an individual;

[''(II) the genetic tests of family members of the individual; or

[''(III) the occurrence of a disease or disorder in family members of the individual; and

[''(ii) that is used to predict risk of disease in asymptomatic or undiagnosed individuals.

[''(B) EXCEPTIONS.—The term 'genetic information' shall not include—

[''(i) information about the sex or age of the individual;

[''(ii) information derived from clinical and laboratory tests, such as the chemical, blood, or urine analyses of the individual including cholesterol tests, used to determine health status or detect illness or diagnose disease; and

[''(iii) information about physical exams of the individual.

[''(8) GENETIC SERVICES.—The term 'genetic services' means health services provided for genetic education and counseling.

[''(9) GENETIC TEST.—The term 'genetic test' means the analysis of human DNA, RNA, chromosomes, proteins, and metabolites, that detect genotypes, mutations, or chromosomal changes. Such term does not include information described in paragraph (7)(B).''.

[(d) REGULATIONS AND EFFECTIVE DATE.—

[(1) REGULATIONS.—Not later than 1 year after the date of enactment of this title, the Secretary of the Treasury shall issue final regulations in an accessible format to carry out the amendments made by this section.

[(2) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to group health plans for plan years beginning after the date that is 18 months after the date of enactment of this title.

[SEC. 104. ASSURING COORDINATION.

[The Secretary of the Treasury, the Secretary of Health and Human Services, and the Secretary of Labor shall ensure, through the execution of an interagency memorandum of understanding among such Secretaries, that—

[(1) regulations, rulings, and interpretations issued by such Secretaries relating to the same matter over which two or more such Secretaries have responsibility under this title (and the amendments made by this title) are administered so as to have the same effect at all times; and

[(2) coordination of policies relating to enforcing the same requirements through such Secretaries in order to have a coordinated enforcement strategy that avoids duplication of enforcement efforts and assigns priorities in enforcement.

[TITLE II—PROHIBITING EMPLOYMENT DISCRIMINATION ON THE BASIS OF GENETIC INFORMATION

[SEC. 201. DEFINITIONS.

[In this title:

[(1) COMMISSION.—The term ''Commission'' means the Equal Employment Opportunity Commission as created by section 705 of the Civil Rights Act of 1964 (42 U.S.C. 2000e–4).

[(2) EMPLOYEE; EMPLOYER; EMPLOYMENT AGENCY; LABOR ORGANIZATION; AND MEMBER.—The terms—

[(A) ''employee'', ''employer'', ''employment agency'', and ''labor organization'' have the meanings given such terms in section 701 of the Civil Rights Act of 1964 (42 U.S.C. 2000e); and

[(B) ''employee'' and ''member'', as used with respect to a labor organization, include an applicant for employment and an applicant for membership in a labor organization, respectively.

[(3) FAMILY MEMBER.—The term ''family member'' means with respect to an individual—

[(A) the spouse of the individual;

[(B) a dependent child of the individual, including a child who is born to or placed for adoption with the individual; and

[(C) all other individuals related by blood to the individual or the spouse or child described in subparagraph (A) or (B).

[(4) GENETIC INFORMATION.—

[(A) IN GENERAL.—Except as provided in subparagraph (B), the term ''genetic information'' means information—

[(i) concerning—

[(I) the genetic tests of an individual;

[(II) the genetic tests of family members of the individual; or

[(III) the occurrence of a disease or disorder in family members of the individual; and

[(ii) that is used to predict risk of disease in asymptomatic or undiagnosed individuals.

[(B) EXCEPTIONS.—The term ''genetic information'' shall not include—

[(i) information about the sex or age of the individual;

[(ii) information derived from clinical and laboratory tests, such as the chemical, blood, or urine analyses of the individual including cholesterol tests, used to determine health status or detect illness or diagnose disease; and

[(iii) information about physical exams of the individual.

[(5) GENETIC MONITORING.—The term ''genetic monitoring'' means the periodic examination of employees to evaluate acquired modifications to their genetic material, such as chromosomal damage or evidence of increased occurrence of mutations, that may have developed in the course of employment due to exposure to toxic substances in the workplace, in order to identify, evaluate, and respond to the effects of or control adverse environmental exposures in the workplace.

[(6) GENETIC SERVICES.—The term ''genetic services'' means health services provided for genetic education and counseling.

[(7) GENETIC TEST.—The term ''genetic test'' means the analysis of human DNA, RNA, chromosomes, proteins, and metabolites, that detect genotypes, mutations, or chromosomal changes. Such term does not include information described in paragraph (4)(B).

[SEC. 202. EMPLOYER PRACTICES.

[(a) USE OF GENETIC INFORMATION.—It shall be an unlawful employment practice for an employer—

[(1) to fail or refuse to hire or to discharge any individual, or otherwise to discriminate against any individual with respect to the compensation, terms, conditions, or privileges of employment of the individual, because of genetic information with respect to the individual (or information about a request for or the receipt of genetic services by such individual or family member of such individual); or

[(2) to limit, segregate, or classify the employees of the employer in any way that would deprive or tend to deprive any individual of employment opportunities or otherwise adversely affect the status of the individual as an employee, because of genetic information with respect to the individual (or information about a request for or the receipt of genetic services by such individual or family member of such individual).

[(b) LIMITATION ON COLLECTION OF GENETIC INFORMATION.—It shall be an unlawful employment practice for an employer to intentionally request, require, or purchase genetic information with respect to an employee or a family member of the employee (or information about a request for the receipt of genetic services by such employee or a family of such employee) except—

[(1) where the information involved is to be used for genetic monitoring of the biological effects of toxic substances in the workplace, but only if—

[(A) the employer provides written notice of the genetic monitoring to the employee;

[(B)(i) the employee provides prior, knowing, voluntary, and written authorization; or

[(ii) the genetic monitoring is required by Federal, State, or local law;

[(C) the employee is informed of individual monitoring results;

[(D) the monitoring conforms to any Federal or State genetic monitoring regulations, including any such regulations that may be promulgated by the Secretary of Labor pursuant to the Occupational Safety and Health Act of 1970 (29 U.S.C. 651 et seq.) or the Federal Mine Safety and Health Act of 1977 (30 U.S.C. 801 et seq.); and

[(E) the employer, excluding any licensed or certified health care professional that is involved in the genetic monitoring program,

receives the results of the monitoring only in aggregate terms that do not disclose the identity of specific employees;

[(2) where—

[(A) health or genetic services are offered by the employer;

[(B) the employee provides prior, knowing, voluntary, and written authorization; and

[(C) only the employee (or family member if the family member is receiving genetic services) and the licensed or certified health care professionals involved in providing such services receive individually identifiable information concerning the results of such services; or

[(3) where the request or requirement is necessary to comply with Federal, State, or local law.

[(c) LIMITATION.—In the case of genetic information to which paragraph (1), (2), or (3) of subsection (b) applies, such information may not be used in violation of paragraph (1) or (2) of subsection (a).

[(d) EXCEPTION.—

[(1) IN GENERAL.—An employer shall not be considered to engage in an employment practice that is unlawful under this title because of its disparate impact, on the basis that the employer applies a qualification standard, test, or other selection criterion that screens out or tends to screen out, or otherwise denies a job benefit to, an individual, if the standard, test, or other selection criterion is shown to be job-related with respect to the employment position involved and consistent with business necessity.

[(2) QUALIFICATION STANDARD.—In this subsection, the term ''qualification standard'' may include a requirement that an individual shall not pose a direct threat to the health or safety of other individuals in the workplace.

[(e) RULE OF CONSTRUCTION RELATING TO GROUP HEALTH PLANS.—Nothing in this section shall be construed to prohibit a group health plan (as such term is defined in section 733(a) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1191b(a))), or a health insurance issuer offering group health insurance coverage in connection with a group health plan, from making a request described in subsection (b) if such request is consistent with the provisions of part 7 of subtitle B of title I of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1181 et seq.), title XXVII of the Public Health Service (42 U.S.C. 300gg et seq.), and chapter 100 of the Internal Revenue Code of 1986.

[SEC. 203. EMPLOYMENT AGENCY PRACTICES.

[(a) USE OF GENETIC INFORMATION.—It shall be an unlawful employment practice for an employment agency—

[(1) to fail or refuse to refer for employment, or otherwise to discriminate against, any individual because of genetic information with respect to the individual (or information about a request for or the receipt of genetic services by such individual or family member of such individual); or

[(2) to limit, segregate, or classify individuals or fail or refuse to refer for employment any individual in any way that would deprive or tend to deprive any individual of employment opportunities, or otherwise adversely affect the status of the individual as an employee, because of genetic information with respect to the individual (or information about a request for or the receipt of genetic services by such individual or family member of such individual).

[(b) LIMITATION ON COLLECTION OF GENETIC INFORMATION.—It shall be an unlawful employment practice for an employment agency—

[(1) to intentionally request, require, or purchase genetic information with respect to an employee or family member of the employee (or information about a request for or the receipt of genetic services by such employee or family member of such employee), except that the provisions of section 202(b) shall apply with respect to employment agencies and employees (and the family members of the employees) under this paragraph in the same manner and to the same extent as such provisions apply to employers and employees (and the family members of the employees) under section 202(b); or

[(2) to cause or attempt to cause an employer to discriminate against an individual in violation of this title.

[(c) LIMITATION AND EXCEPTION.—Subsections (c) and (d) of section 202 shall apply with respect to employment agencies and employees (and the family members of the employees) under this section in the same manner and to the same extent as such provisions apply to employers and employees (and the family members of the employees) under section 202.

[SEC. 204. LABOR ORGANIZATION PRACTICES.

[(a) USE OF GENETIC INFORMATION.—It shall be an unlawful employment practice for a labor organization—

[(1) to exclude or to expel from the membership of the organization, or otherwise to discriminate against, any individual because of genetic information with respect to the individual (or information about a request for or the receipt of genetic services by such individual or family member of such individual); or

[(2) to limit, segregate, or classify the members of the organization, or fail or refuse to refer for employment any individual, in any way that would deprive or tend to deprive any individual of employment opportunities, or otherwise adversely affect the status of the individual as an employee, because of genetic information with respect to the individual (or information about a request for or the receipt of genetic services by such individual or family member of such individual).

[(b) LIMITATION ON COLLECTION OF GENETIC INFORMATION.—It shall be an unlawful employment practice for a labor organization—

[(1) to intentionally request, require, or purchase genetic information with respect to an individual who is a member of a labor organization or a family member of the individual (or information about a request for or the receipt of genetic services by such individual or family member of such individual) except that the provisions of section 202(b) shall apply with respect to labor organizations and such individuals (and their family members) under this paragraph in the same manner and to the same extent as such provisions apply to employers and employees (and the family members of the employees) under section 202(b); or

[(2) to cause or attempt to cause an employer to discriminate against an individual in violation of this title.

[(c) LIMITATION AND EXCEPTION.—Subsections (c) and (d) of section 202 shall apply with respect to labor organizations and individuals who are members of labor organizations (and the family members of the individuals) under this section in the same manner and to the same extent as such provisions apply to employers and employees (and the family members of the employees) under section 202.

[SEC. 205. TRAINING PROGRAMS.

[(a) USE OF GENETIC INFORMATION.—It shall be an unlawful employment practice for any employer, labor organization, or joint labor-management committee controlling apprenticeship or other training or retraining, including on-the-job training programs—

[(1) to discriminate against any individual because of genetic information with respect to the individual (or information about a request for or the receipt of genetic services by such individual or a family member of such individual) in admission to, or employment in, any program established to provide apprenticeship or other training or retraining; or

[(2) to limit, segregate, or classify the applicants for or participants in such apprenticeship or other training or retraining, or fail or refuse to refer for employment any individual, in any way that would deprive or tend to deprive any individual of employment opportunities, or otherwise adversely affect the status of the individual as an employee, because of genetic information with respect to the individual (or information about a request for or receipt of genetic services by such individual or family member of such individual).

[(b) LIMITATION ON COLLECTION OF GENETIC INFORMATION.—It shall be an unlawful employment practice for an employer, labor organization, or joint labor-management committee described in subsection (a)—

[(1) to intentionally request, require, or purchase genetic information with respect to an individual who is an applicant for or a participant in such apprenticeship or other training or retraining (or information about a request for or the receipt of genetic services by such individual or family member of such individual) except that the provisions of section 202(b) shall apply with respect to such employers, labor organizations, and joint labor-management committees and to such individuals (and their family members) under this paragraph in the same manner and to the same extent as such provisions apply to employers and employees (and their family members) under section 202(b); or

[(2) to cause or attempt to cause an employer to discriminate against an applicant for or a participant in such apprenticeship or other training or retraining in violation of this title.

[(c) LIMITATION AND EXCEPTION.—Subsections (c) and (d) of section 202 shall apply with respect to employers, labor organizations, and joint labor-management committees described in subsection (a) and to individuals who are applicants for or participants in apprenticeship or other training or retraining (and the family members of the individuals) under this section in the same manner and to the same extent as the provisions apply to employers and to employees (and the family members of the employees) under section 202.

[SEC. 206. CONFIDENTIALITY OF GENETIC INFORMATION.

[(a) TREATMENT OF INFORMATION AS PART OF CONFIDENTIAL MEDICAL RECORD.—

[(1) IN GENERAL.—If an employer, employment agency, labor organization, or joint labor-management committee possesses genetic information about an employee or member (or information about a request for or receipt of genetic services by such employee or member or family member of such employee or member), such information shall be treated and maintained as part of the employee's or member's confidential medical records.

[(2) LIMITATION ON DISCLOSURE.—An employer, employment agency, labor organization, or joint labor-management committee shall not disclose genetic information concerning an employee or member (or information about a request for or receipt of genetic services by such employee or member or family member of such employee or member) except—

[(A) to the employee (or family member if the family member is receiving the genetic services) or member at the request of the employee or member;

[(B) to an occupational or other health researcher if the research is conducted in compliance with the regulations and protections provided for under part 46 of title 45, Code of Federal Regulations (or any corresponding similar regulation or rule);

[(C) under legal compulsion of a Federal or State court order, except that if the court order was secured without the knowledge of the individual to whom the information refers, the employer shall provide the individual with adequate notice to challenge the court order;

[(D) to government officials who are investigating compliance with this title if the information is relevant to the investigation;

[(E) to the extent that such disclosure is necessary to comply with Federal, State, or local law; or

[(F) as otherwise provided for in this title.

[(b) RULE OF CONSTRUCTION RELATING TO GROUP HEALTH PLANS.—Nothing in this section shall be construed to prohibit a group health plan (as such term is defined in section 733(a) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1191b(a))), or a health insurance issuer offering group health insurance coverage in connection with a group health plan, from using or disclosing information described in subsection (a) if such use of disclosure is consistent with the provisions of part 7 of subtitle B of title I of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1181 et seq.), title XXVII of the Public Health Service (42 U.S.C. 300gg et seq.), and chapter 100 of the Internal Revenue Code of 1986.

[SEC. 207. ENFORCEMENT.

[The powers, remedies, and procedures set forth in sections 705, 706, 707, 709, and 710 of the Civil Rights Act of 1964 (42 U.S.C. 2000e–4, 2000e–5, 2000e–6, 2000e–8, and 2000e–9) shall be the powers, remedies, and procedures that this title provides to the Commission, to the Attorney General, or to any person alleging an unlawful employment practice in violation of section 202 (other than subsection (e) of such section), 203, 204, 205, or 206(a) or the regulations promulgated under section 210, concerning employment.

[SEC. 208. AMENDMENT TO THE REVISED STATUTES.

[(a) RIGHT OF RECOVERY.—Section 1977A(a) of the Revised Statutes (42 U.S.C. 1981a(a)) is amended by adding at the end the following:

[''(4) GENETIC INFORMATION.—In an action brought by a complaining party under the powers, remedies, and procedures set forth in section 706 of the Civil Rights Act of 1964 (42 U.S.C. 2000e–5), as authorized under section 207 of the Genetic Information Nondiscrimination Act of 2003, against a respondent who is engaging (or has engaged) in an intentional unlawful employment practice prohibited by section 202 (other than subsection (e) of such section), 203, 204, 205 or 206(a) of such Genetic Information Nondiscrimination Act of 2003 against an individual (other than an action involving an employment practice that is allegedly unlawful because of its disparate impact), the complaining party may recover compensatory and punitive damages as permitted under subsection (b), in addition to any relief otherwise provided for under section 706(g) of the Civil Rights Act of 1964 (42 U.S.C. 2000e–5(g)), from the respondent.''.

[(b) CONFORMING AMENDMENTS.—Section 1977A(d) of the Revised Statutes (42 U.S.C. 1981a(d)) is amended—

[(1) in paragraph (1)—

[(A) in subparagraph (A), by striking ''or'' at the end;

[(B) in subparagraph (B), by striking the period and inserting ''; or''; and

[(C) by adding at the end the following:

[''(C) in the case of a person seeking to bring an action under subsection (a)(4) ,the Equal Employment Opportunity Commission, the Attorney General, or a person who may bring an action or proceeding under title II of the Genetic Information Nondiscrimination Act of 2003.''; and

[(2) in paragraph (2), by striking ''or the discrimination or the violation described in paragraph (2),'' and inserting ''the discrimination or the violation described in paragraph (2), or the intentional unlawful employment practice described in paragraph (4),''.

[SEC. 209. CONSTRUCTION.

[Nothing in this title shall be construed to—

[(1) limit the rights or protections of an individual under the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.), including coverage afforded to individuals under section 102 of such Act (42 U.S.C. 12112), or under the Rehabilitation Act of 1973 (29 U.S.C. 701 et seq.), except that an individual may not bring an action against an employer, employment agency, labor organization, or joint labor-management committee pursuant to this title and also pursuant to the Americans with Disabilities Act of 1990 or the Rehabilitation Act of 1973, if the actions are predicated on the same facts or a common occurrence;

[(2) limit the rights or protections of an individual to bring an action under this title against an employer, employment agency, labor organization, or joint labor-management committee for a violation of this title, except that an individual may not bring an action against such an employer, employment agency, labor organization, or joint labor-management committee, with respect to a group health plan or a health insurance issuer offering health insurance coverage in connection with a group health plan, under this title if the action is based on a violation of a provision of the amendments made by title I;

[(3) limit the rights or protections of an individual under any other Federal or State statute that provides equal or greater protection to an individual than the rights or protections provided for under this title;

[(4) apply to the Armed Forces Repository of Specimen Samples for the Identification of Remains;

[(5) limit the authority of a Federal department or agency to conduct or sponsor occupational or other health research that is conducted in compliance with the regulations contained in part 46 of title 45, Code of Federal Regulations (or any corresponding or similar regulation or rule); and

[(6) limit the statutory or regulatory authority of the Occupational Safety and Health Administration or the Mine Safety and Health Administration to promulgate or enforce workplace safety and health laws and regulations.

[SEC. 210. REGULATIONS.

[Not later than 1 year after the date of enactment of this title, the Commission shall issue final regulations in an accessible format to carry out this title.

[SEC. 211. SEVERABILITY.

[If any provision of this title, an amendment made by this title, or the application of such provision or amendment to any person or circumstance is held to be unconstitutional, the remainder of this title, the amendments made by this title, and the application of such provisions to any person or circumstance shall not be affected thereby.

[SEC. 212. AUTHORIZATION OF APPROPRIATIONS.

[There are authorized to be appropriated such sums as may be necessary to carry out this title.

[SEC. 213. EFFECTIVE DATE.

[(a) IN GENERAL.—This title takes effect on the date that is 18 months after the date of enactment of this Act.

[(b) ENFORCEMENT.—Notwithstanding subsection (a), no enforcement action shall be commenced under section 207 until the date on which the Commission issues final regulations under section 210.

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Genetic Information Nondiscrimination Act of 2003''.

TITLE I—GENETIC NONDISCRIMINATION IN HEALTH INSURANCE

SEC. 101. AMENDMENTS TO EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974.

(a) PROHIBITION OF HEALTH DISCRIMINATION ON THE BASIS OF GENETIC INFORMATION OR GENETIC SERVICES.—

(1) NO ENROLLMENT RESTRICTION FOR GENETIC SERVICES.—Section 702(a)(1)(F) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1182(a)(1)(F)) is amended by inserting before the period the following: ''(including information about a request for or receipt of genetic services by an individual or family member of such individual)''.

(2) NO DISCRIMINATION IN GROUP PREMIUMS BASED ON GENETIC INFORMATION.—Section 702(b) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1182(b)) is amended—

(A) in paragraph (2)(A), by inserting before the semicolon the following: ''except as provided in paragraph (3)''; and

(B) by adding at the end the following:

''(3) NO DISCRIMINATION IN GROUP PREMIUMS BASED ON GENETIC INFORMATION.—For purposes of this section, a group health plan, or a health insurance issuer offering group health insurance coverage in connection with a group health plan, shall not adjust premium or contribution amounts for a group on the basis of genetic information concerning an individual in the group or a family member of the individual (including information about a request for or receipt of genetic services by an individual or family member of such individual).''.

(b) LIMITATIONS ON GENETIC TESTING.—Section 702 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1182) is amended by adding at the end the following:

''(c) GENETIC TESTING.—

''(1) LIMITATION ON REQUESTING OR REQUIRING GENETIC TESTING.—A group health plan, or a health insurance issuer offering health insurance coverage in connection with a group health plan, shall not request or require an individual or a family member of such individual to undergo a genetic test.

''(2) RULE OF CONSTRUCTION.—Nothing in this part shall be construed to—

''(A) limit the authority of a health care professional who is providing health care services with respect to an individual to request that such individual or a family member of such individual undergo a genetic test;

''(B) limit the authority of a health care professional who is employed by or affiliated with a group health plan or a health insurance issuer and who is providing health care services to an individual as part of a bona fide wellness program to notify such individual of the availability of a genetic test or to provide information to such individual regarding such genetic test; or

''(C) authorize or permit a health care professional to require that an individual undergo a genetic test.

''(d) APPLICATION TO ALL PLANS.—The provisions of subsections (a)(1)(F), (b)(3), and (c) shall apply to group health plans and health insurance issuers without regard to section 732(a).''.

(c) REMEDIES AND ENFORCEMENT.—Section 502 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1132) is amended by adding at the end the following:

''(n) ENFORCEMENT OF GENETIC NONDISCRIMINATION REQUIREMENTS.—

''(1) INJUNCTIVE RELIEF FOR IRREPARABLE HARM.—With respect to any violation of subsection (a)(1)(F), (b)(3), or (c) of section 702, a

participant or beneficiary may seek relief under subsection 502(a)(1)(B) prior to the exhaustion of available administrative remedies under section 503 if it is demonstrated to the court, by a preponderance of the evidence, that the exhaustion of such remedies would cause irreparable harm to the health of the participant or beneficiary. Any determinations that already have been made under section 503 in such case, or that are made in such case while an action under this paragraph is pending, shall be given due consideration by the court in any action under this subsection in such case.

''(2) EQUITABLE RELIEF FOR GENETIC NONDISCRIMINATION.—

''(A) REINSTATEMENT OF BENEFITS WHERE EQUITABLE RELIEF HAS BEEN AWARDED.—The recovery of benefits by a participant or beneficiary under a civil action under this section may include an administrative penalty under subparagraph (B) and the retroactive reinstatement of coverage under the plan involved to the date on which the participant or beneficiary was denied eligibility for coverage if—

''(i) the civil action was commenced under subsection (a)(1)(B); and

''(ii) the denial of coverage on which such civil action was based constitutes a violation of subsection (a)(1)(F), (b)(3), or (c) of section 702.

''(B) ADMINISTRATIVE PENALTY.—

''(i) IN GENERAL.—An administrator who fails to comply with the requirements of subsection (a)(1)(F), (b)(3), or (c) of section 702 with respect to a participant or beneficiary may, in an action commenced under subsection (a)(1)(B), be personally liable in the discretion of the court, for a penalty in the amount not more than $100 for each day in the noncompliance period.

''(ii) NONCOMPLIANCE PERIOD.—For purposes of clause (i), the term 'noncompliance period' means the period—

''(I) beginning on the date that a failure described in clause (i) occurs; and

''(II) ending on the date that such failure is corrected.

''(iii) PAYMENT TO PARTICIPANT OR BENEFICIARY.—A penalty collected under this subparagraph shall be paid to the participant or beneficiary involved.

''(3) SECRETARIAL ENFORCEMENT AUTHORITY.—

''(A) GENERAL RULE.—The Secretary has the authority to impose a penalty on any failure of a group health plan to meet the requirements of subsection (a)(1)(F), (b)(3), or (c) of section 702.

''(B) AMOUNT.—

''(i) IN GENERAL.—The amount of the penalty imposed by subparagraph (A) shall be $100 for each day in the noncompliance period with respect to each individual to whom such failure relates.

''(ii) NONCOMPLIANCE PERIOD.—For purposes of this paragraph, the term 'noncompliance period' means, with respect to any failure, the period—

''(I) beginning on the date such failure first occurs; and

''(II) ending on the date such failure is corrected.

''(C) MINIMUM PENALTIES WHERE FAILURE DISCOVERED.—Notwithstanding clauses (i) and (ii) of subparagraph (D):

''(i) IN GENERAL.—In the case of 1 or more failures with respect to an individual—

''(I) which are not corrected before the date on which the plan receives a notice from the Secretary of such violation; and

''(II) which occurred or continued during the period involved;

the amount of penalty imposed by subparagraph (A) by reason of such failures with respect to such individual shall not be less than $2,500.

''(ii) HIGHER MINIMUM PENALTY WHERE VIOLATIONS ARE MORE THAN DE MINIMIS.—To the extent violations for which any person is liable under this paragraph for any year are more than de minimis, clause (i) shall be applied by substituting '$15,000' for '$2,500' with respect to such person.

''(D) LIMITATIONS.—

''(i) PENALTY NOT TO APPLY WHERE FAILURE NOT DISCOVERED EXERCISING REASONABLE DILIGENCE.—No penalty shall be imposed by subparagraph (A) on any failure during any period for which it is established to the satisfaction of the Secretary that the person otherwise liable for such penalty did not know, and exercising reasonable diligence would not have known, that such failure existed.

''(ii) PENALTY NOT TO APPLY TO FAILURES CORRECTED WITHIN CERTAIN PERIODS.—No penalty shall be imposed by subparagraph (A) on any failure if—

''(I) such failure was due to reasonable cause and not to willful neglect; and

''(II) such failure is corrected during the 30-day period beginning on the first date the person otherwise liable for such penalty knew, or exercising reasonable diligence would have known, that such failure existed.

''(iii) OVERALL LIMITATION FOR UNINTENTIONAL FAILURES.—In the case of failures which are due to reasonable cause and not to willful neglect, the penalty imposed by subparagraph (A) for failures shall not exceed the amount equal to the lesser of—

''(I) 10 percent of the aggregate amount paid or incurred by the employer (or predecessor employer) during the preceding taxable year for group health plans; or

''(II) $500,000.

''(E) WAIVER BY SECRETARY.—In the case of a failure which is due to reasonable cause and not to willful neglect, the Secretary may waive part or all of the penalty imposed by subparagraph (A) to the extent that the payment of such penalty would be excessive relative to the failure involved.''.

(d) DEFINITIONS.—Section 733(d) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1191b(d)) is amended by adding at the end the following:

''(5) FAMILY MEMBER.—The term 'family member' means with respect to an individual—

''(A) the spouse of the individual;

''(B) a dependent child of the individual, including a child who is born to or placed for adoption with the individual; and

''(C) all other individuals related by blood to the individual or the spouse or child described in subparagraph (A) or (B).

''(6) GENETIC INFORMATION.—

''(A) IN GENERAL.—Except as provided in subparagraph (B), the term 'genetic information' means information about—

''(i) an individual's genetic tests;

''(ii) the genetic tests of family members of the individual; or

''(iii) the occurrence of a disease or disorder in family members of the individual.

''(B) EXCLUSIONS.—The term 'genetic information' shall not include information about the sex or age of an individual.

''(7) GENETIC TEST.—

''(A) IN GENERAL.—The term 'genetic test' means an analysis of human DNA, RNA, chromosomes, proteins, or metabolites, that detects genotypes, mutations, or chromosomal changes.

''(B) EXCEPTIONS.—The term 'genetic test' does not mean—

''(i) an analysis of proteins or metabolites that does not detect genotypes, mutations, or chromosomal changes; or

''(ii) an analysis of proteins or metabolites that is directly related to a manifested disease, disorder, or pathological condition that could reasonably be detected by a health care professional with appropriate training and expertise in the field of medicine involved.

''(8) GENETIC SERVICES.—The term 'genetic services' means—

''(A) a genetic test;

''(B) genetic counseling (such as obtaining, interpreting, or assessing genetic information); or

''(C) genetic education.''.

(e) REGULATIONS AND EFFECTIVE DATE.—

(1) REGULATIONS.—Not later than 1 year after the date of enactment of this title, the Secretary of Labor shall issue final regulations in an accessible format to carry out the amendments made by this section.

(2) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to group health plans for plan years beginning after the date that is 18 months after the date of enactment of this title.

SEC. 102. AMENDMENTS TO THE PUBLIC HEALTH SERVICE ACT.

(a) AMENDMENTS RELATING TO THE GROUP MARKET.—

(1) PROHIBITION OF HEALTH DISCRIMINATION ON THE BASIS OF GENETIC INFORMATION OR GENETIC SERVICES.—

(A) NO ENROLLMENT RESTRICTION FOR GENETIC SERVICES.—Section 2702(a)(1)(F) of the Public Health Service Act (42 U.S.C. 300gg–1(a)(1)(F)) is amended by inserting before the period the following: ''(including information about a request for or receipt of genetic services by an individual or family member of such individual)''.

(B) NO DISCRIMINATION IN GROUP PREMIUMS BASED ON GENETIC INFORMATION.—Section 2702(b) of the Public Health Service Act (42 U.S.C. 300gg–1(b)) is amended—

(i) in paragraph (2)(A), by inserting before the semicolon the following: '', except as provided in paragraph (3)''; and

(ii) by adding at the end the following:

''(3) NO DISCRIMINATION IN GROUP PREMIUMS BASED ON GENETIC INFORMATION.—For purposes of this section, a group health plan, or a health insurance issuer offering group health insurance coverage in connection with a group health plan, shall not adjust premium or contribution amounts for a group on the basis of genetic information concerning an individual in the group or a family member of the individual (including information about a request for or receipt of genetic services by an individual or family member of such individual).''.

(2) LIMITATIONS ON GENETIC TESTING.—Section 2702 of the Public Health Service Act (42 U.S.C. 300gg–1) is amended by adding at the end the following:

''(c) GENETIC TESTING.—

''(1) LIMITATION ON REQUESTING OR REQUIRING GENETIC TESTING.—A group health plan, or a health insurance issuer offering health insurance coverage in connection with a group health plan, shall not request or require an individual or a family member of such individual to undergo a genetic test.

''(2) RULE OF CONSTRUCTION.—Nothing in this part shall be construed to—

''(A) limit the authority of a health care professional who is providing health care services with respect to an individual to request that such individual or a family member of such individual undergo a genetic test;

''(B) limit the authority of a health care professional who is employed by or affiliated with a group health plan or a health insurance issuer and who is providing health care services to an individual as part of a bona fide wellness program to notify such individual of the availability of a genetic test or to provide information to such individual regarding such genetic test; or

''(C) authorize or permit a health care professional to require that an individual undergo a genetic test.

''(d) APPLICATION TO ALL PLANS.—The provisions of subsections (a)(1)(F), (b)(3), and (c) shall apply to group health plans and health insurance issuers without regard to section 2721(a).''.

(3) REMEDIES AND ENFORCEMENT.—Section 2722(b) of the Public Health Service Act (42 U.S.C. 300gg–22)(b)) is amended by adding at the end the following:

''(3) ENFORCEMENT AUTHORITY RELATING TO GENETIC DISCRIMINATION.—

''(A) GENERAL RULE.—In the cases described in paragraph (1), notwithstanding the provisions of paragraph (2)(C), the following provisions shall apply with respect to an action under this subsection by the Secretary with respect to any failure of a health insurance issuer in connection with a group health plan, to meet the requirements of subsection (a)(1)(F), (b)(3), or (c) of section 2702.

''(B) AMOUNT.—

''(i) IN GENERAL.—The amount of the penalty imposed under this paragraph shall be $100 for each day in the noncompliance period with respect to each individual to whom such failure relates.

''(ii) NONCOMPLIANCE PERIOD.—For purposes of this paragraph, the term 'noncompliance period' means, with respect to any failure, the period—

''(I) beginning on the date such failure first occurs; and

''(II) ending on the date such failure is corrected.

''(C) MINIMUM PENALTIES WHERE FAILURE DISCOVERED.—Notwithstanding clauses (i) and (ii) of subparagraph (D):

''(i) IN GENERAL.—In the case of 1 or more failures with respect to an individual—

''(I) which are not corrected before the date on which the plan receives a notice from the Secretary of such violation; and

''(II) which occurred or continued during the period involved;

the amount of penalty imposed by subparagraph (A) by reason of such failures with respect to such individual shall not be less than $2,500.

''(ii) HIGHER MINIMUM PENALTY WHERE VIOLATIONS ARE MORE THAN DE MINIMIS.—To the extent violations for which any person is liable under this paragraph for any year are more than de minimis, clause (i) shall be applied by substituting '$15,000' for '$2,500' with respect to such person.

''(D) LIMITATIONS.—

''(i) PENALTY NOT TO APPLY WHERE FAILURE NOT DISCOVERED EXERCISING REASONABLE DILIGENCE.—No penalty shall be imposed by subparagraph (A) on any failure during any period for which it is established to the satisfaction of the Secretary that the person otherwise liable for such penalty did not know, and exercising reasonable diligence would not have known, that such failure existed.

''(ii) PENALTY NOT TO APPLY TO FAILURES CORRECTED WITHIN CERTAIN PERIODS.—No penalty shall be imposed by subparagraph (A) on any failure if—

''(I) such failure was due to reasonable cause and not to willful neglect; and

''(II) such failure is corrected during the 30-day period beginning on the first date the person otherwise liable for such penalty knew, or exercising reasonable diligence would have known, that such failure existed.

''(iii) OVERALL LIMITATION FOR UNINTENTIONAL FAILURES.—In the case of failures which are due to reasonable cause and not to willful neglect, the penalty imposed by subparagraph (A) for failures shall not exceed the amount equal to the lesser of—

''(I) 10 percent of the aggregate amount paid or incurred by the employer (or predecessor employer) during the preceding taxable year for group health plans; or

''(II) $500,000.

''(E) WAIVER BY SECRETARY.—In the case of a failure which is due to reasonable cause and not to willful neglect, the Secretary may waive part or all of the penalty imposed by subparagraph (A) to the extent that the payment of such penalty would be excessive relative to the failure involved.''.

(4) DEFINITIONS.—Section 2791(d) of the Public Health Service Act (42 U.S.C. 300gg–91(d)) is amended by adding at the end the following:

''(15) FAMILY MEMBER.—The term 'family member' means with respect to an individual—

''(A) the spouse of the individual;

''(B) a dependent child of the individual, including a child who is born to or placed for adoption with the individual; and

''(C) all other individuals related by blood to the individual or the spouse or child described in subparagraph (A) or (B).

''(16) GENETIC INFORMATION.—

''(A) IN GENERAL.—Except as provided in subparagraph (B), the term 'genetic information' means information about—

''(i) an individual's genetic tests;

''(ii) the genetic tests of family members of the individual; or

''(iii) the occurrence of a disease or disorder in family members of the individual.

''(B) EXCLUSIONS.—The term 'genetic information' shall not include information about the sex or age of an individual.

''(17) GENETIC TEST.—

''(A) IN GENERAL.—The term 'genetic test' means an analysis of human DNA, RNA, chromosomes, proteins, or metabolites, that detects genotypes, mutations, or chromosomal changes.

''(B) EXCEPTIONS.—The term 'genetic test' does not mean—

''(i) an analysis of proteins or metabolites that does not detect genotypes, mutations, or chromosomal changes; or

''(ii) an analysis of proteins or metabolites that is directly related to a manifested disease, disorder, or pathological condition that could reasonably be detected by a health care professional with appropriate training and expertise in the field of medicine involved.

''(18) GENETIC SERVICES.—The term 'genetic services' means—

''(A) a genetic test;

''(B) genetic counseling (such as obtaining, interpreting, or assessing genetic information); or

''(C) genetic education.''.

(b) AMENDMENT RELATING TO THE INDIVIDUAL MARKET.—

(1) IN GENERAL.—The first subpart 3 of part B of title XXVII of the Public Health Service Act (42 U.S.C. 300gg–51 et seq.) (relating to other requirements) is amended—

(A) by redesignating such subpart as subpart 2; and

(B) by adding at the end the following:

''SEC. 2753. PROHIBITION OF HEALTH DISCRIMINATION ON THE BASIS OF GENETIC INFORMATION.

''(a) PROHIBITION ON GENETIC INFORMATION AS A CONDITION OF ELIGIBILITY.—A health insurance issuer offering health insurance coverage in the individual market may not establish rules for the eligibility (including continued eligibility) of any individual to enroll in individual health insurance coverage based on genetic information (including information about a request for or receipt of genetic services by an individual or family member of such individual).

''(b) PROHIBITION ON GENETIC INFORMATION IN SETTING PREMIUM RATES.—A health insurance issuer offering health insurance coverage in the individual market shall not adjust premium or contribution amounts for an individual on the basis of genetic information concerning the individual or a family member of the individual (including information about a request for or receipt of genetic services by an individual or family member of such individual).

''(c) GENETIC TESTING.—

''(1) LIMITATION ON REQUESTING OR REQUIRING GENETIC TESTING.—A health insurance issuer offering health insurance coverage in the individual market shall not request or require an individual or a family member of such individual to undergo a genetic test.

''(2) RULE OF CONSTRUCTION.—Nothing in this part shall be construed to—

''(A) limit the authority of a health care professional who is providing health care services with respect to an individual to request that such individual or a family member of such individual undergo a genetic test;

''(B) limit the authority of a health care professional who is employed by or affiliated with a health insurance issuer and who is providing health care services to an individual as part of a bona fide wellness program to notify such individual of the availability of a genetic test or to provide information to such individual regarding such genetic test; or

''(C) authorize or permit a health care professional to require that an individual undergo a genetic test.''.

(2) REMEDIES AND ENFORCEMENT.—Section 2761(b) of the Public Health Service Act (42 U.S.C. 300gg–61)(b)) is amended to read as follows:

''(b) SECRETARIAL ENFORCEMENT AUTHORITY.—The Secretary shall have the same authority in relation to enforcement of the provisions of this part with respect to issuers of health insurance coverage in the individual market in a State as the Secretary has under section 2722(b)(2), and section 2722(b)(3) with respect to violations of genetic nondiscrimination provisions, in relation to the enforcement of the provisions of part A with respect to issuers of health insurance coverage in the small group market in the State.''.

(c) ELIMINATION OF OPTION OF NON-FEDERAL GOVERNMENTAL PLANS TO BE EXCEPTED FROM REQUIREMENTS CONCERNING GENETIC INFORMATION.—Section 2721(b)(2) of the Public Health Service Act (42 U.S. C. 300gg–21(b)(2)) is amended—

(1) in subparagraph (A), by striking ''If the plan sponsor'' and inserting ''Except as provided in subparagraph (D), if the plan sponsor''; and

(2) by adding at the end the following:

''(D) ELECTION NOT APPLICABLE TO REQUIREMENTS CONCERNING GENETIC INFORMATION.—The election described in subparagraph (A) shall not be available with respect to the provisions of subsections (a)(1)(F) and (c) of section 2702 and the provisions of section 2702(b) to the extent that such provisions apply to genetic information (or information about a request for or the receipt of genetic services by an individual or a family member of such individual).''.

(d) REGULATIONS AND EFFECTIVE DATE.—

(1) REGULATIONS.—Not later than 1 year after the date of enactment of this title, the Secretary of Labor and the Secretary of Health and Human Services (as the case may be) shall issue final regulations in an accessible format to carry out the amendments made by this section.

(2) EFFECTIVE DATE.—The amendments made by this section shall apply—

(A) with respect to group health plans, and health insurance coverage offered in connection with group health plans, for plan years beginning after the date that is 18 months after the date of enactment of this title; and

(B) with respect to health insurance coverage offered, sold, issued, renewed, in effect, or operated in the individual market after the date that is 18 months after the date of enactment of this title.

SEC. 103. AMENDMENTS TO THE INTERNAL REVENUE CODE OF 1986.

(a) PROHIBITION OF HEALTH DISCRIMINATION ON THE BASIS OF GENETIC INFORMATION OR GENETIC SERVICES.—

(1) NO ENROLLMENT RESTRICTION FOR GENETIC SERVICES.—Section 9802(a)(1)(F) of the Internal Revenue Code of 1986 is amended by inserting before the period the following: ''(including information about a request for or receipt of genetic services by an individual or family member of such individual)''.

(2) NO DISCRIMINATION IN GROUP PREMIUMS BASED ON GENETIC INFORMATION.—Section 9802(b) of the Internal Revenue Code of 1986 is amended—

(A) in paragraph (2)(A), by inserting before the semicolon the following: '', except as provided in paragraph (3)''; and

(B) by adding at the end the following:

''(3) NO DISCRIMINATION IN GROUP PREMIUMS BASED ON GENETIC INFORMATION.—For purposes

of this section, a group health plan shall not adjust premium or contribution amounts for a group on the basis of genetic information concerning an individual in the group or a family member of the individual (including information about a request for or receipt of genetic services by an individual or family member of such individual).''.

(b) LIMITATIONS ON GENETIC TESTING.—Section 9802 of the Internal Revenue Code of 1986 is amended by adding at the end the following:

''(d) GENETIC TESTING AND GENETIC SERVICES.—

''(1) LIMITATION ON REQUESTING OR REQUIRING GENETIC TESTING.—A group health plan shall not request or require an individual or a family member of such individual to undergo a genetic test.

''(2) RULE OF CONSTRUCTION.—Nothing in this part shall be construed to—

''(A) limit the authority of a health care professional who is providing health care services with respect to an individual to request that such individual or a family member of such individual undergo a genetic test;

''(B) limit the authority of a health care professional who is employed by or affiliated with a group health plan and who is providing health care services to an individual as part of a bona fide wellness program to notify such individual of the availability of a genetic test or to provide information to such individual regarding such genetic test; or

''(C) authorize or permit a health care professional to require that an individual undergo a genetic test.

''(e) APPLICATION TO ALL PLANS.—The provisions of subsections (a)(1)(F), (b)(3), and (d) shall apply to group health plans and health insurance issuers without regard to section 9831(a)(2).''.

(c) DEFINITIONS.—Section 9832(d) of the Internal Revenue Code of 1986 is amended by adding at the end the following:

''(6) FAMILY MEMBER.—The term 'family member' means with respect to an individual—

''(A) the spouse of the individual;

''(B) a dependent child of the individual, including a child who is born to or placed for adoption with the individual; and

''(C) all other individuals related by blood to the individual or the spouse or child described in subparagraph (A) or (B).

''(7) GENETIC SERVICES.—The term 'genetic services' means—

''(A) a genetic test;

''(B) genetic counseling (such as obtaining, interpreting, or assessing genetic information); or

''(C) genetic education.

''(8) GENETIC INFORMATION.—

''(A) IN GENERAL.—Except as provided in subparagraph (B), the term 'genetic information' means information about—

''(i) an individual's genetic tests;

''(ii) the genetic tests of family members of the individual; or

''(iii) the occurrence of a disease or disorder in family members of the individual.

''(B) EXCLUSIONS.—The term 'genetic information' shall not include information about the sex or age of an individual.

''(9) GENETIC TEST.—

''(A) IN GENERAL.—The term 'genetic test' means an analysis of human DNA, RNA, chromosomes, proteins, or metabolites, that detects genotypes, mutations, or chromosomal changes.

''(B) EXCEPTIONS.—The term 'genetic test' does not mean—

''(i) an analysis of proteins or metabolites that does not detect genotypes, mutations, or chromosomal changes; or

''(ii) an analysis of proteins or metabolites that is directly related to a manifested disease, disorder, or pathological condition that could reasonably be detected by a health care professional with appropriate training and expertise in the field of medicine involved.''.

(d) REGULATIONS AND EFFECTIVE DATE.—

(1) REGULATIONS.—Not later than 1 year after the date of enactment of this title, the Secretary of the Treasury shall issue final regulations in an accessible format to carry out the amendments made by this section.

(2) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to group health plans for plan years beginning after the date that is 18 months after the date of enactment of this title.

SEC. 104. AMENDMENTS TO TITLE XVIII OF THE SOCIAL SECURITY ACT RELATING TO MEDIGAP.

(a) NONDISCRIMINATION.—

(1) IN GENERAL.—Section 1882(s)(2) of the Social Security Act (42 U.S.C. 1395ss(s)(2)) is amended by adding at the end the following:

''(E)(i) An issuer of a medicare supplemental policy shall not deny or condition the issuance or effectiveness of the policy, and shall not discriminate in the pricing of the policy (including the adjustment of premium rates) of an eligible individual on the basis of genetic information concerning the individual (or information about a request for, or the receipt of, genetic services by such individual or family member of such individual).

''(ii) For purposes of clause (i), the terms 'family member', 'genetic services', and 'genetic information' shall have the meanings given such terms in subsection (v).''.

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply with respect to a policy for policy years beginning after the date that is 18 months after the date of enactment of this Act.

(b) LIMITATIONS ON GENETIC TESTING.—

(1) IN GENERAL.—Section 1882 of the Social Security Act (42 U.S.C. 1395ss) is amended by adding at the end the following:

''(v) LIMITATIONS ON GENETIC TESTING.—

''(1) GENETIC TESTING.—

''(A) LIMITATION ON REQUESTING OR REQUIRING GENETIC TESTING.—An issuer of a medicare supplemental policy shall not request or require an individual or a family member of such individual to undergo a genetic test.

''(B) RULE OF CONSTRUCTION.—Nothing in this title shall be construed to—

''(i) limit the authority of a health care professional who is providing health care services with respect to an individual to request that such individual or a family member of such individual undergo a genetic test;

''(ii) limit the authority of a health care professional who is employed by or affiliated with an issuer of a medicare supplemental policy and who is providing health care services to an individual as part of a bona fide wellness program to notify such individual of the availability of a genetic test or to provide information to such individual regarding such genetic test; or

''(iii) authorize or permit a health care professional to require that an individual undergo a genetic test.

''(2) DEFINITIONS.—In this subsection:

''(A) FAMILY MEMBER.—The term 'family member' means with respect to an individual—

''(i) the spouse of the individual;

''(ii) a dependent child of the individual, including a child who is born to or placed for adoption with the individual; or

''(iii) any other individuals related by blood to the individual or to the spouse or child described in clause (i) or (ii).

''(B) GENETIC INFORMATION.—

''(i) IN GENERAL.—Except as provided in clause (ii), the term 'genetic information' means information about—

''(I) an individual's genetic tests;

''(II) the genetic tests of family members of the individual; or

''(III) the occurrence of a disease or disorder in family members of the individual.

''(ii) EXCLUSIONS.—The term 'genetic information' shall not include information about the sex or age of an individual.

''(C) GENETIC TEST.—

''(i) IN GENERAL.—The term 'genetic test' means an analysis of human DNA, RNA, chromosomes, proteins, or metabolites, that detects genotypes, mutations, or chromosomal changes.

''(ii) EXCEPTIONS.—The term 'genetic test' does not mean—

''(I) an analysis of proteins or metabolites that does not detect genotypes, mutations, or chromosomal changes; or

''(II) an analysis of proteins or metabolites that is directly related to a manifested disease, disorder, or pathological condition that could reasonably be detected by a health care professional with appropriate training and expertise in the field of medicine involved.

''(D) GENETIC SERVICES.—The term 'genetic services' means—

''(i) a genetic test;

''(ii) genetic counseling (such as obtaining, interpreting, or assessing genetic information); or

''(iii) genetic education.

''(E) ISSUER OF A MEDICARE SUPPLEMENTAL POLICY.—The term 'issuer of a medicare supplemental policy' includes a third-party administrator or other person acting for or on behalf of such issuer.''.

(2) CONFORMING AMENDMENT.—Section 1882(o) of the Social Security Act (42 U.S.C. 1395ss(o)) is amended by adding at the end the following:

''(4) The issuer of the medicare supplemental policy complies with subsection (s)(2)(E) and subsection (v).''.

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply with respect to an issuer of a medicare supplemental policy for policy years beginning on or after the date that is 18 months after the date of enactment of this Act.

(c) TRANSITION PROVISIONS.—

(1) IN GENERAL.—If the Secretary of Health and Human Services identifies a State as requiring a change to its statutes or regulations to conform its regulatory program to the changes made by this section, the State regulatory program shall not be considered to be out of compliance with the requirements of section 1882 of the Social Security Act due solely to failure to make such change until the date specified in paragraph (4).

(2) NAIC STANDARDS.—If, not later than June 30, 2004, the National Association of Insurance Commissioners (in this subsection referred to as the ''NAIC'') modifies its NAIC Model Regulation relating to section 1882 of the Social Security Act (referred to in such section as the 1991 NAIC Model Regulation, as subsequently modified) to conform to the amendments made by this section, such revised regulation incorporating the modifications shall be considered to be the applicable NAIC model regulation (including the revised NAIC model regulation and the 1991 NAIC Model Regulation) for the purposes of such section.

(3) SECRETARY STANDARDS.—If the NAIC does not make the modifications described in paragraph (2) within the period specified in such paragraph, the Secretary of Health and Human Services shall, not later than October 1, 2004, make the modifications described in such paragraph and such revised regulation incorporating the modifications shall be considered to be the appropriate regulation for the purposes of such section.

(4) DATE SPECIFIED.—

(A) IN GENERAL.—Subject to subparagraph (B), the date specified in this paragraph for a State is the earlier of—

(i) the date the State changes its statutes or regulations to conform its regulatory program to the changes made by this section, or

(ii) October 1, 2004.

(B) ADDITIONAL LEGISLATIVE ACTION REQUIRED.—In the case of a State which the Secretary identifies as—

(i) requiring State legislation (other than legislation appropriating funds) to conform its regulatory program to the changes made in this section, but

(ii) having a legislature which is not scheduled to meet in 2004 in a legislative session in which such legislation may be considered,

the date specified in this paragraph is the first day of the first calendar quarter beginning after the close of the first legislative session of the State legislature that begins on or after July 1, 2004. For purposes of the previous sentence, in the case of a State that has a 2-year legislative session, each year of such session shall be deemed to be a separate regular session of the State legislature.

SEC. 105. PRIVACY AND CONFIDENTIALITY.

(a) APPLICABILITY.—Except as provided in subsection (d), the provisions of this section shall apply to group health plans, health insurance issuers (including issuers in connection with group health plans or individual health coverage), and issuers of medicare supplemental policies, without regard to—

(1) section 732(a) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1191a(a));

(2) section 2721(a) of the Public Health Service Act (42 U.S.C. 300gg–21(a)); and

(3) section 9831(a)(2) of the Internal Revenue Code of 1986.

(b) COMPLIANCE WITH CERTAIN CONFIDENTIALITY STANDARDS WITH RESPECT TO GENETIC INFORMATION.—

(1) IN GENERAL.—The regulations promulgated by the Secretary of Health and Human Services under part C of title XI of the Social Security Act (42 U.S.C. 1320d et seq.) and section 264 of the Health Insurance Portability and Accountability Act of 1996 (42 U.S.C. 1320d–2 note) shall apply to the use or disclosure of genetic information.

(2) PROHIBITION ON UNDERWRITING AND PREMIUM RATING.—Notwithstanding paragraph (1), a group health plan, a health insurance issuer, or issuer of a medicare supplemental policy shall not use or disclose genetic information (including information about a request for or a receipt of genetic services by an individual or family member of such individual) for purposes of underwriting, determinations of eligibility to enroll, premium rating, or the creation, renewal or replacement of a plan, contract or coverage for health insurance or health benefits.

(c) PROHIBITION ON COLLECTION OF GENETIC INFORMATION.—

(1) IN GENERAL.—A group health plan, health insurance issuer, or issuer of a medicare supplemental policy shall not request, require, or purchase genetic information (including information about a request for or a receipt of genetic services by an individual or family member of such individual) for purposes of underwriting, determinations of eligibility to enroll, premium rating, or the creation, renewal or replacement of a plan, contract or coverage for health insurance or health benefits.

(2) LIMITATION RELATING TO THE COLLECTION OF GENETIC INFORMATION PRIOR TO ENROLLMENT.—A group health plan, health insurance issuer, or issuer of a medicare supplemental policy shall not request, require, or purchase genetic information (including information about a request for or a receipt of genetic services by an individual or family member of such individual) concerning a participant, beneficiary, or enrollee prior to the enrollment, and in connection with such enrollment, of such individual under the plan, coverage, or policy.

(3) INCIDENTAL COLLECTION.—Where a group health plan, health insurance issuer, or issuer of a medicare supplemental policy obtains genetic information incidental to the requesting, requiring, or purchasing of other information concerning a participant, beneficiary, or enrollee, such request, requirement, or purchase shall not be considered a violation of this subsection if—

(A) such request, requirement, or purchase is not in violation of paragraph (1); and

(B) any genetic information (including information about a request for or receipt of genetic services) requested, required, or purchased is not used or disclosed in violation of subsection (b).

(d) APPLICATION OF CONFIDENTIALITY STANDARDS.—The provisions of subsections (b) and (c) shall not apply—

(1) to group health plans, health insurance issuers, or issuers of medicare supplemental policies that are not otherwise covered under the regulations promulgated by the Secretary of Health and Human Services under part C of title XI of the Social Security Act (42 U.S.C. 1320d et seq.) and section 264 of the Health Insurance Portability and Accountability Act of 1996 (42 U.S.C. 1320d–2 note); and

(2) to genetic information that is not considered to be individually-identifiable health information under the regulations promulgated by the Secretary of Health and Human Services under part C of title XI of the Social Security Act (42 U.S.C. 1320d et seq.) and section 264 of the Health Insurance Portability and Accountability Act of 1996 (42 U.S.C. 1320d–2 note).

(e) ENFORCEMENT.—A group health plan, health insurance issuer, or issuer of a medicare supplemental policy that violates a provision of this section shall be subject to the penalties described in sections 1176 and 1177 of the Social Security Act (42 U.S.C. 1320d–5 and 1320d–6) in the same manner and to the same extent that such penalties apply to violations of part C of title XI of such Act.

(f) PREEMPTION.—

(1) IN GENERAL.—A provision or requirement under this section or a regulation promulgated under this section shall supersede any contrary provision of State law unless such provision of State law imposes requirements, standards, or implementation specifications that are more stringent than the requirements, standards, or implementation specifications imposed under this section or such regulations. No penalty, remedy, or cause of action to enforce such a State law that is more stringent shall be preempted by this section.

(2) RULE OF CONSTRUCTION.—Nothing in paragraph (1) shall be construed to establish a penalty, remedy, or cause of action under State law if such penalty, remedy, or cause of action is not otherwise available under such State law.

(g) COORDINATION WITH PRIVACY REGULATIONS.—The Secretary shall implement and administer this section in a manner that is consistent with the implementation and administration by the Secretary of the regulations promulgated by the Secretary of Health and Human Services under part C of title XI of the Social Security Act (42 U.S.C. 1320d et seq.) and section 264 of the Health Insurance Portability and Accountability Act of 1996 (42 U.S.C. 1320d–2 note).

(h) DEFINITIONS.—In this section:

(1) GENETIC INFORMATION; GENETIC SERVICES.—The terms ''family member'', ''genetic information'', ''genetic services'', and ''genetic test'' have the meanings given such terms in section 2791 of the Public Health Service Act (42 U.S.C. 300gg–91), as amended by this Act.

(2) GROUP HEALTH PLAN; HEALTH INSURANCE ISSUER.—The terms ''group health plan'' and ''health insurance issuer'' include only those plans and issuers that are covered under the regulations described in subsection (d)(1).

(3) ISSUER OF A MEDICARE SUPPLEMENTAL POLICY.—The term ''issuer of a medicare supplemental policy'' means an issuer described in section 1882 of the Social Security Act (42 insert 1395ss).

(4) SECRETARY.—The term ''Secretary'' means the Secretary of Health and Human Services.

SEC. 106. ASSURING COORDINATION.

(a) IN GENERAL.—Except as provided in subsection (b), the Secretary of the Treasury, the Secretary of Health and Human Services, and the Secretary of Labor shall ensure, through the execution of an interagency memorandum of understanding among such Secretaries, that—

(1) regulations, rulings, and interpretations issued by such Secretaries relating to the same matter over which two or more such Secretaries have responsibility under this title (and the amendments made by this title) are administered so as to have the same effect at all times; and

(2) coordination of policies relating to enforcing the same requirements through such Secretaries in order to have a coordinated enforcement strategy that avoids duplication of enforcement efforts and assigns priorities in enforcement.

(b) AUTHORITY OF THE SECRETARY.—The Secretary of Health and Human Services has the sole authority to promulgate regulations to implement section 105.

SEC. 107. REGULATIONS; EFFECTIVE DATE.

(a) REGULATIONS.—Not later than 1 year after the date of enactment of this title, the Secretary of Labor, the Secretary of Health and Human Services, and the Secretary of the Treasury shall issue final regulations in an accessible format to carry out this title.

(b) EFFECTIVE DATE.—Except as provided in section 104, the amendments made by this title shall take effect on the date that is 18 months after the date of enactment of this Act.

TITLE II—PROHIBITING EMPLOYMENT DISCRIMINATION ON THE BASIS OF GENETIC INFORMATION

SEC. 201. DEFINITIONS.

In this title:

(1) COMMISSION.—The term ''Commission'' means the Equal Employment Opportunity Commission as created by section 705 of the Civil Rights Act of 1964 (42 U.S.C. 2000e–4).

(2) EMPLOYEE; EMPLOYER; EMPLOYMENT AGENCY; LABOR ORGANIZATION; MEMBER.—

(A) IN GENERAL.—The term ''employee'' means—

(i) an employee (including an applicant), as defined in section 701(f) of the Civil Rights Act of 1964 (42 U.S.C. 2000e(f));

(ii) a State employee (including an applicant) described in section 304(a) of the Government Employee Rights Act of 1991 (42 U.S.C. 2000e–16c(a));

(iii) a covered employee (including an applicant), as defined in section 101 of the Congressional Accountability Act of 1995 (2 U.S.C. 1301);

(iv) a covered employee (including an applicant), as defined in section 411(c) of title 3, United States Code; or

(v) an employee or applicant to which section 717(a) of the Civil Rights Act of 1964 (42 U.S.C. 2000e–16(a)) applies.

(B) EMPLOYER.—The term ''employer'' means—

(i) an employer (as defined in section 701(b) of the Civil Rights Act of 1964 (42 U.S.C. 2000e(b));

(ii) an entity employing a State employee described in section 304(a) of the Government Employee Rights Act of 1991;

(iii) an employing office, as defined in section 101 of the Congressional Accountability Act of 1995;

(iv) an employing office, as defined in section 411(c) of title 3, United States Code; or

(v) an entity to which section 717(a) of the Civil Rights Act of 1964 applies.

(C) EMPLOYMENT AGENCY; LABOR ORGANIZATION.—The terms ''employment agency'' and ''labor organization'' have the meanings given the terms in section 701 of the Civil Rights Act of 1964 (42 U.S.C. 2000e).

(D) MEMBER.—The term ''member'', with respect to a labor organization, includes an applicant for membership in a labor organization.

(3) FAMILY MEMBER.—The term ''family member'' means with respect to an individual—

(A) the spouse of the individual;

(B) a dependent child of the individual, including a child who is born to or placed for adoption with the individual; and

(C) all other individuals related by blood to the individual or the spouse or child described in subparagraph (A) or (B).

(4) GENETIC INFORMATION.—

(A) IN GENERAL.—Except as provided in subparagraph (B), the term ''genetic information'' means information about—

(i) an individual's genetic tests;

(ii) the genetic tests of family members of the individual; or

(iii) the occurrence of a disease or disorder in family members of the individual.

(B) EXCEPTIONS.—The term ''genetic information'' shall not include information about the sex or age of an individual.

(5) GENETIC MONITORING.—The term ''genetic monitoring'' means the periodic examination of employees to evaluate acquired modifications to their genetic material, such as chromosomal damage or evidence of increased occurrence of mutations, that may have developed in the course of employment due to exposure to toxic substances in the workplace, in order to identify, evaluate, and respond to the effects of or control adverse environmental exposures in the workplace.

(6) GENETIC SERVICES.—The term ''genetic services'' means—

(A) a genetic test;

(B) genetic counseling (such as obtaining, interpreting or assessing genetic information); or

(C) genetic education.

(7) GENETIC TEST.—

(A) IN GENERAL.—The term ''genetic test'' means the analysis of human DNA, RNA, chromosomes, proteins, or metabolites, that detects genotypes, mutations, or chromosomal changes.

(B) EXCEPTION.—The term ''genetic test'' does not mean an analysis of proteins or metabolites that does not detect genotypes, mutations, or chromosomal changes.

SEC. 202. EMPLOYER PRACTICES.

(a) USE OF GENETIC INFORMATION.—It shall be an unlawful employment practice for an employer—

(1) to fail or refuse to hire or to discharge any employee, or otherwise to discriminate against any employee with respect to the compensation, terms, conditions, or privileges of employment of the employee, because of genetic information with respect to the employee (or information about a request for or the receipt of genetic services by such employee or family member of such employee); or

(2) to limit, segregate, or classify the employees of the employer in any way that would deprive or tend to deprive any employee of employment opportunities or otherwise adversely affect the status of the employee as an employee, because of genetic information with respect to the employee (or information about a request for or the receipt of genetic services by such employee or family member of such employee).

(b) ACQUISITION OF GENETIC INFORMATION.—It shall be an unlawful employment practice for an employer to request, require, or purchase genetic information with respect to an employee or a family member of the employee (or information about a request for the receipt of genetic services by such employee or a family member of such employee) except—

(1) where an employer inadvertently requests or requires family medical history of the employee or family member of the employee;

(2) where—

(A) health or genetic services are offered by the employer, including such services offered as part of a bona fide wellness program;

(B) the employee provides prior, knowing, voluntary, and written authorization;

(C) only the employee (or family member if the family member is receiving genetic services) and the licensed health care professional or board certified genetic counselor involved in providing such services receive individually identifiable information concerning the results of such services; and

(D) any individually identifiable genetic information provided under subparagraph (C) in connection with the services provided under subparagraph (A) is only available for purposes of such services and shall not be disclosed to the employer except in aggregate terms that do not disclose the identity of specific employees;

(3) where an employer requests or requires family medical history from the employee to comply with the certification provisions of section 103 of the Family and Medical Leave Act of 1993 (29 U.S.C. 2613) or such requirements under State family and medical leave laws;

(4) where an employer purchases documents that are commercially and publicly available (including newspapers, magazines, periodicals, and books, but not including medical databases or court records) that include family medical history; or

(5) where the information involved is to be used for genetic monitoring of the biological effects of toxic substances in the workplace, but only if—

(A) the employer provides written notice of the genetic monitoring to the employee;

(B)(i) the employee provides prior, knowing, voluntary, and written authorization; or

(ii) the genetic monitoring is required by Federal or State law;

(C) the employee is informed of individual monitoring results;

(D) the monitoring is in compliance with—

(i) any Federal genetic monitoring regulations, including any such regulations that may be promulgated by the Secretary of Labor pursuant to the Occupational Safety and Health Act of 1970 (29 U.S.C. 651 et seq.), the Federal Mine Safety and Health Act of 1977 (30 U.S.C. 801 et seq.), or the Atomic Energy Act of 1954 (42 U.S.C. 2011 et seq.); or

(ii) State genetic monitoring regulations, in the case of a State that is implementing genetic monitoring regulations under the authority of the Occupational Safety and Health Act of 1970 (29 U.S.C. 651 et seq.); and

(E) the employer, excluding any licensed health care professional or board certified genetic counselor that is involved in the genetic monitoring program, receives the results of the monitoring only in aggregate terms that do not disclose the identity of specific employees;

(c) PRESERVATION OF PROTECTIONS.—In the case of information to which any of paragraphs (1) through (5) of subsection (b) applies, such information may not be used in violation of paragraph (1) or (2) of subsection (a) or treated or disclosed in a manner that violates section 206.

SEC. 203. EMPLOYMENT AGENCY PRACTICES.

(a) USE OF GENETIC INFORMATION.—It shall be an unlawful employment practice for an employment agency—

(1) to fail or refuse to refer for employment, or otherwise to discriminate against, any individual because of genetic information with respect to the individual (or information about a request for or the receipt of genetic services by such individual or family member of such individual);

(2) to limit, segregate, or classify individuals or fail or refuse to refer for employment any individual in any way that would deprive or tend to deprive any individual of employment opportunities, or otherwise adversely affect the status of the individual as an employee, because of genetic information with respect to the individual (or information about a request for or the receipt of genetic services by such individual or family member of such individual); or

(3) to cause or attempt to cause an employer to discriminate against an individual in violation of this title.

(b) ACQUISITION OF GENETIC INFORMATION.—It shall be an unlawful employment practice for an employment agency to request, require, or purchase genetic information with respect to an individual or a family member of the individual (or information about a request for the receipt of genetic services by such individual or a family member of such individual) except—

(1) where an employment agency inadvertently requests or requires family medical history of the individual or family member of the individual;

(2) where—

(A) health or genetic services are offered by the employment agency, including such services offered as part of a bona fide wellness program;

(B) the individual provides prior, knowing, voluntary, and written authorization;

(C) only the individual (or family member if the family member is receiving genetic services) and the licensed health care professional or board certified genetic counselor involved in providing such services receive individually identifiable information concerning the results of such services; and

(D) any individually identifiable genetic information provided under subparagraph (C) in connection with the services provided under subparagraph (A) is only available for purposes of such services and shall not be disclosed to the employment agency except in aggregate terms that do not disclose the identity of specific individuals;

(3) where an employment agency requests or requires family medical history from the individual to comply with the certification provisions of section 103 of the Family and Medical Leave Act of 1993 (29 U.S.C. 2613) or such requirements under State family and medical leave laws;

(4) where an employment agency purchases documents that are commercially and publicly available (including newspapers, magazines, periodicals, and books, but not including medical databases or court records) that include family medical history; or

(5) where the information involved is to be used for genetic monitoring of the biological effects of toxic substances in the workplace, but only if—

(A) the employment agency provides written notice of the genetic monitoring to the individual;

(B)(i) the individual provides prior, knowing, voluntary, and written authorization; or

(ii) the genetic monitoring is required by Federal or State law;

(C) the individual is informed of individual monitoring results;

(D) the monitoring is in compliance with—

(i) any Federal genetic monitoring regulations, including any such regulations that may be promulgated by the Secretary of Labor pursuant to the Occupational Safety and Health Act of 1970 (29 U.S.C. 651 et seq.), the Federal Mine Safety and Health Act of 1977 (30 U.S.C. 801 et seq.), or the Atomic Energy Act of 1954 (42 U.S.C. 2011 et seq.); or

(ii) State genetic monitoring regulations, in the case of a State that is implementing genetic monitoring regulations under the authority of the Occupational Safety and Health Act of 1970 (29 U.S.C. 651 et seq.); and

(E) the employment agency, excluding any licensed health care professional or board certified genetic counselor that is involved in the genetic monitoring program, receives the results of the monitoring only in aggregate terms that do not disclose the identity of specific individuals;

(c) PRESERVATION OF PROTECTIONS.—In the case of information to which any of paragraphs (1) through (5) of subsection (b) applies, such information may not be used in violation of paragraph (1) or (2) of subsection (a) or treated or disclosed in a manner that violates section 206.

SEC. 204. LABOR ORGANIZATION PRACTICES.

(a) USE OF GENETIC INFORMATION.—It shall be an unlawful employment practice for a labor organization—

(1) to exclude or to expel from the membership of the organization, or otherwise to discriminate against, any member because of genetic information with respect to the member (or information about a request for or the receipt of genetic services by such member or family member of such member);

(2) to limit, segregate, or classify the members of the organization, or fail or refuse to refer for

employment any member, in any way that would deprive or tend to deprive any member of employment opportunities, or otherwise adversely affect the status of the member as an employee, because of genetic information with respect to the member (or information about a request for or the receipt of genetic services by such member or family member of such member); or

(3) to cause or attempt to cause an employer to discriminate against a member in violation of this title.

(b) ACQUISITION OF GENETIC INFORMATION.—It shall be an unlawful employment practice for a labor organization to request, require, or purchase genetic information with respect to a member or a family member of the member (or information about a request for the receipt of genetic services by such member or a family member of such member) except—

(1) where a labor organization inadvertently requests or requires family medical history of the member or family member of the member;

(2) where—

(A) health or genetic services are offered by the labor organization, including such services offered as part of a bona fide wellness program;

(B) the member provides prior, knowing, voluntary, and written authorization;

(C) only the member (or family member if the family member is receiving genetic services) and the licensed health care professional or board certified genetic counselor involved in providing such services receive individually identifiable information concerning the results of such services; and

(D) any individually identifiable genetic information provided under subparagraph (C) in connection with the services provided under subparagraph (A) is only available for purposes of such services and shall not be disclosed to the labor organization except in aggregate terms that do not disclose the identity of specific members;

(3) where a labor organization requests or requires family medical history from the members to comply with the certification provisions of section 103 of the Family and Medical Leave Act of 1993 (29 U.S.C. 2613) or such requirements under State family and medical leave laws;

(4) where a labor organization purchases documents that are commercially and publicly available (including newspapers, magazines, periodicals, and books, but not including medical databases or court records) that include family medical history; or

(5) where the information involved is to be used for genetic monitoring of the biological effects of toxic substances in the workplace, but only if—

(A) the labor organization provides written notice of the genetic monitoring to the member;

(B)(i) the member provides prior, knowing, voluntary, and written authorization; or

(ii) the genetic monitoring is required by Federal or State law;

(C) the member is informed of individual monitoring results;

(D) the monitoring is in compliance with—

(i) any Federal genetic monitoring regulations, including any such regulations that may be promulgated by the Secretary of Labor pursuant to the Occupational Safety and Health Act of 1970 (29 U.S.C. 651 et seq.), the Federal Mine Safety and Health Act of 1977 (30 U.S.C. 801 et seq.), or the Atomic Energy Act of 1954 (42 U.S.C. 2011 et seq.); or

(ii) State genetic monitoring regulations, in the case of a State that is implementing genetic monitoring regulations under the authority of the Occupational Safety and Health Act of 1970 (29 U.S.C. 651 et seq.); and

(E) the labor organization, excluding any licensed health care professional or board certified genetic counselor that is involved in the genetic monitoring program, receives the results of the monitoring only in aggregate terms that do not disclose the identity of specific members;

(c) PRESERVATION OF PROTECTIONS.—In the case of information to which any of paragraphs (1) through (5) of subsection (b) applies, such information may not be used in violation of paragraph (1) or (2) of subsection (a) or treated or disclosed in a manner that violates section 206.

SEC. 205. TRAINING PROGRAMS.

(a) USE OF GENETIC INFORMATION.—It shall be an unlawful employment practice for any employer, labor organization, or joint labor-management committee controlling apprenticeship or other training or retraining, including on-the-job training programs—

(1) to discriminate against any individual because of genetic information with respect to the individual (or information about a request for or the receipt of genetic services by such individual or a family member of such individual) in admission to, or employment in, any program established to provide apprenticeship or other training or retraining;

(2) to limit, segregate, or classify the applicants for or participants in such apprenticeship or other training or retraining, or fail or refuse to refer for employment any individual, in any way that would deprive or tend to deprive any individual of employment opportunities, or otherwise adversely affect the status of the individual as an employee, because of genetic information with respect to the individual (or information about a request for or receipt of genetic services by such individual or family member of such individual); or

(3) to cause or attempt to cause an employer to discriminate against an applicant for or a participant in such apprenticeship or other training or retraining in violation of this title.

(b) ACQUISITION OF GENETIC INFORMATION.—It shall be an unlawful employment practice for an employer, labor organization, or joint labor-management committee described in subsection (a) to request, require, or purchase genetic information with respect to an individual or a family member of the individual (or information about a request for the receipt of genetic services by such individual or a family member of such individual) except—

(1) where the employer, labor organization, or joint labor-management committee inadvertently requests or requires family medical history of the individual or family member of the individual;

(2) where—

(A) health or genetic services are offered by the employer, labor organization, or joint labor-management committee, including such services offered as part of a bona fide wellness program;

(B) the individual provides prior, knowing, voluntary, and written authorization;

(C) only the individual (or family member if the family member is receiving genetic services) and the licensed health care professional or board certified genetic counselor involved in providing such services receive individually identifiable information concerning the results of such services;

(D) any individually identifiable genetic information provided under subparagraph (C) in connection with the services provided under subparagraph (A) is only available for purposes of such services and shall not be disclosed to the employer, labor organization, or joint labor-management committee except in aggregate terms that do not disclose the identity of specific individuals;

(3) where the employer, labor organization, or joint labor-management committee requests or requires family medical history from the individual to comply with the certification provisions of section 103 of the Family and Medical Leave Act of 1993 (29 U.S.C. 2613) or such requirements under State family and medical leave laws;

(4) where the employer, labor organization, or joint labor-management committee purchases documents that are commercially and publicly available (including newspapers, magazines, periodicals, and books, but not including medical databases or court records) that include family medical history; or

(5) where the information involved is to be used for genetic monitoring of the biological effects of toxic substances in the workplace, but only if—

(A) the employer, labor organization, or joint labor-management committee provides written notice of the genetic monitoring to the individual;

(B)(i) the individual provides prior, knowing, voluntary, and written authorization; or

(ii) the genetic monitoring is required by Federal or State law;

(C) the individual is informed of individual monitoring results;

(D) the monitoring is in compliance with—

(i) any Federal genetic monitoring regulations, including any such regulations that may be promulgated by the Secretary of Labor pursuant to the Occupational Safety and Health Act of 1970 (29 U.S.C. 651 et seq.), the Federal Mine Safety and Health Act of 1977 (30 U.S.C. 801 et seq.), or the Atomic Energy Act of 1954 (42 U.S.C. 2011 et seq.); or

(ii) State genetic monitoring regulations, in the case of a State that is implementing genetic monitoring regulations under the authority of the Occupational Safety and Health Act of 1970 (29 U.S.C. 651 et seq.); and

(E) the employer, labor organization, or joint labor-management committee, excluding any licensed health care professional or board certified genetic counselor that is involved in the genetic monitoring program, receives the results of the monitoring only in aggregate terms that do not disclose the identity of specific individuals;

(c) PRESERVATION OF PROTECTIONS.—In the case of information to which any of paragraphs (1) through (5) of subsection (b) applies, such information may not be used in violation of paragraph (1) or (2) of subsection (a) or treated or disclosed in a manner that violates section 206.

SEC. 206. CONFIDENTIALITY OF GENETIC INFORMATION.

(a) TREATMENT OF INFORMATION AS PART OF CONFIDENTIAL MEDICAL RECORD.—If an employer, employment agency, labor organization, or joint labor-management committee possesses genetic information about an employee or member (or information about a request for or receipt of genetic services by such employee or member or family member of such employee or member), such information shall be maintained on separate forms and in separate medical files and be treated as a confidential medical record of the employee or member.

(b) LIMITATION ON DISCLOSURE.—An employer, employment agency, labor organization, or joint labor-management committee shall not disclose genetic information concerning an employee or member (or information about a request for or receipt of genetic services by such employee or member or family member of such employee or member) except—

(1) to the employee (or family member if the family member is receiving the genetic services) or member of a labor organization at the request of the employee or member of such organization;

(2) to an occupational or other health researcher if the research is conducted in compliance with the regulations and protections provided for under part 46 of title 45, Code of Federal Regulations;

(3) in response to an order of a court, except that—

(A) the employer, employment agency, labor organization, or joint labor-management committee may disclose only the genetic information expressly authorized by such order; and

(B) if the court order was secured without the knowledge of the employee or member to whom the information refers, the employer, employment agency, labor organization, or joint labor-

management committee shall provide the employee or member with adequate notice to challenge the court order;

(4) to government officials who are investigating compliance with this title if the information is relevant to the investigation; or

(5) to the extent that such disclosure is made in connection with the employee's compliance with the certification provisions of section 103 of the Family and Medical Leave Act of 1993 (29 U.S.C. 2613) or such requirements under State family and medical leave laws.

SEC. 207. REMEDIES AND ENFORCEMENT.

(a) EMPLOYEES COVERED BY TITLE VII OF THE CIVIL RIGHTS ACT OF 1964.—

(1) IN GENERAL.—The powers, remedies, and procedures provided in sections 705, 706, 707, 709, 710, and 711 of the Civil Rights Act of 1964 (42 U.S.C. 2000e–4 et seq.) to the Commission, the Attorney General, or any person, alleging a violation of title VII of that Act (42 U.S.C. 2000e et seq.) shall be the powers, remedies, and procedures this title provides to the Commission, the Attorney General, or any person, respectively, alleging an unlawful employment practice in violation of this title against an employee described in section 201(2)(A)(i), except as provided in paragraphs (2) and (3).

(2) COSTS AND FEES.—The powers, remedies, and procedures provided in subsections (b) and (c) of section 722 of the Revised Statutes (42 U.S.C. 1988), shall be powers, remedies, and procedures this title provides to the Commission, the Attorney General, or any person, alleging such a practice.

(3) DAMAGES.—The powers, remedies, and procedures provided in section 1977A of the Revised Statutes (42 U.S.C. 1981a), including the limitations contained in subsection (b)(3) of such section 1977A, shall be powers, remedies, and procedures this title provides to the Commission, the Attorney General, or any person, alleging such a practice (not an employment practice specifically excluded from coverage under section 1977A(a)(1) of the Revised Statutes).

(b) EMPLOYEES COVERED BY GOVERNMENT EMPLOYEE RIGHTS ACT OF 1991.—

(1) IN GENERAL.—The powers, remedies, and procedures provided in sections 302 and 304 of the Government Employee Rights Act of 1991 (42 U.S.C. 2000e–16b, 2000e–16c) to the Commission, or any person, alleging a violation of section 302(a)(1) of that Act (42 U.S.C. 2000e–16b(a)(1)) shall be the powers, remedies, and procedures this title provides to the Commission, or any person, respectively, alleging an unlawful employment practice in violation of this title against an employee described in section 201(2)(A)(ii), except as provided in paragraphs (2) and (3).

(2) COSTS AND FEES.—The powers, remedies, and procedures provided in subsections (b) and (c) of section 722 of the Revised Statutes (42 U.S.C. 1988), shall be powers, remedies, and procedures this title provides to the Commission, or any person, alleging such a practice.

(3) DAMAGES.—The powers, remedies, and procedures provided in section 1977A of the Revised Statutes (42 U.S.C. 1981a), including the limitations contained in subsection (b)(3) of such section 1977A, shall be powers, remedies, and procedures this title provides to the Commission, or any person, alleging such a practice (not an employment practice specifically excluded from coverage under section 1977A(a)(1) of the Revised Statutes).

(c) EMPLOYEES COVERED BY CONGRESSIONAL ACCOUNTABILITY ACT OF 1995.—

(1) IN GENERAL.—The powers, remedies, and procedures provided in the Congressional Accountability Act of 1995 (2 U.S.C. 1301 et seq.) to the Board (as defined in section 101 of that Act (2 U.S.C. 1301)), or any person, alleging a violation of section 201(a)(1) of that Act (42 U.S.C. 1311(a)(1)) shall be the powers, remedies, and procedures this title provides to that Board, or any person, alleging an unlawful employment practice in violation of this title against an employee described in section 201(2)(A)(iii), except as provided in paragraphs (2) and (3).

(2) COSTS AND FEES.—The powers, remedies, and procedures provided in subsections (b) and (c) of section 722 of the Revised Statutes (42 U.S.C. 1988), shall be powers, remedies, and procedures this title provides to that Board, or any person, alleging such a practice.

(3) DAMAGES.—The powers, remedies, and procedures provided in section 1977A of the Revised Statutes (42 U.S.C. 1981a), including the limitations contained in subsection (b)(3) of such section 1977A, shall be powers, remedies, and procedures this title provides to that Board, or any person, alleging such a practice (not an employment practice specifically excluded from coverage under section 1977A(a)(1) of the Revised Statutes).

(4) OTHER APPLICABLE PROVISIONS.—With respect to a claim alleging a practice described in paragraph (1), title III of the Congressional Accountability Act of 1995 (2 U.S.C. 1381 et seq.) shall apply in the same manner as such title applies with respect to a claim alleging a violation of section 201(a)(1) of such Act (2 U.S.C. 1311(a)(1)).

(d) EMPLOYEES COVERED BY CHAPTER 5 OF TITLE 3, UNITED STATES CODE.—

(1) IN GENERAL.—The powers, remedies, and procedures provided in chapter 5 of title 3, United States Code, to the President, the Commission, the Merit Systems Protection Board, or any person, alleging a violation of section 411(a)(1) of that title, shall be the powers, remedies, and procedures this title provides to the President, the Commission, such Board, or any person, respectively, alleging an unlawful employment practice in violation of this title against an employee described in section 201(2)(A)(iv), except as provided in paragraphs (2) and (3).

(2) COSTS AND FEES.—The powers, remedies, and procedures provided in subsections (b) and (c) of section 722 of the Revised Statutes (42 U.S.C. 1988), shall be powers, remedies, and procedures this title provides to the the President, the Commission, such Board, or any person, alleging such a practice.

(3) DAMAGES.—The powers, remedies, and procedures provided in section 1977A of the Revised Statutes (42 U.S.C. 1981a), including the limitations contained in subsection (b)(3) of such section 1977A, shall be powers, remedies, and procedures this title provides to the President, the Commission, such Board, or any person, alleging such a practice (not an employment practice specifically excluded from coverage under section 1977A(a)(1) of the Revised Statutes).

(e) EMPLOYEES COVERED BY SECTION 717 OF THE CIVIL RIGHTS ACT OF 1964.—

(1) IN GENERAL.—The powers, remedies, and procedures provided in section 717 of the Civil Rights Act of 1964 (42 U.S.C. 2000e–16) to the Commission, the Attorney General, the Librarian of Congress, or any person, alleging a violation of that section shall be the powers, remedies, and procedures this title provides to the Commission, the Attorney General, the Librarian of Congress, or any person, respectively, alleging an unlawful employment practice in violation of this title against an employee or applicant described in section 201(2)(A)(v), except as provided in paragraphs (2) and (3).

(2) COSTS AND FEES.—The powers, remedies, and procedures provided in subsections (b) and (c) of section 722 of the Revised Statutes (42 U.S.C. 1988), shall be powers, remedies, and procedures this title provides to the Commission, the Attorney General, the Librarian of Congress, or any person, alleging such a practice.

(3) DAMAGES.—The powers, remedies, and procedures provided in section 1977A of the Revised Statutes (42 U.S.C. 1981a), including the limitations contained in subsection (b)(3) of such section 1977A, shall be powers, remedies, and procedures this title provides to the Commission, the Attorney General, the Librarian of Congress, or any person, alleging such a practice (not an employment practice specifically excluded from coverage under section 1977A(a)(1) of the Revised Statutes).

(f) DEFINITION.—In this section, the term ''Commission'' means the Equal Employment Opportunity Commission.

SEC. 208. DISPARATE IMPACT.

(a) GENERAL RULE.—Notwithstanding any other provision of this Act, ''disparate impact'', as that term is used in section 703(k) of the Civil Rights Act of 1964 (42 U.S.C. 2000e–d(k))), on the basis of genetic information does not establish a cause of action under this Act.

(b) COMMISSION.—On the date that is 6 years after the date of enactment of this Act, there shall be established a commission, to be known as the Genetic Nondiscrimination Study Commission (referred to in this section as the ''Commission'') to review the developing science of genetics and to make recommendations to Congress regarding whether to provide a disparate impact cause of action under this Act.

(c) MEMBERSHIP.—

(1) IN GENERAL.—The Commission shall be composed of 8 members, of which—

(A) 1 member shall be appointed by the Majority Leader of the Senate;

(B) 1 member shall be appointed by the Minority Leader of the Senate;

(C) 1 member shall be appointed by the Chairman of the Committee on Health, Education, Labor, and Pensions of the Senate;

(D) 1 member shall be appointed by the ranking minority member of the Committee on Health, Education, Labor, and Pensions of the Senate;

(E) 1 member shall be appointed by the Speaker of the House of Representative;

(F) 1 member shall be appointed by the Minority Leader of the House of Representative;

(G) 1 member shall be appointed by the Chairman of the Committee on Education and the Workforce of the House of Representatives; and

(H) 1 member shall be appointed by the ranking minority member of the Committee on Education and the Workforce of the House of Representatives.

(2) COMPENSATION AND EXPENSES.—The members of the Commission shall not receive compensation for the performance of services for the Commission, but shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code, while away from their homes or regular places of business in the performance of services for the Commission.

(d) ADMINISTRATIVE PROVISIONS.—

(1) LOCATION.—The Commission shall be located in a facility maintained by the Equal Employment Opportunity Commission.

(2) DETAIL OF GOVERNMENT EMPLOYEES.—Any Federal Government employee may be detailed to the Commission without reimbursement, and such detail shall be without interruption or loss of civil service status or privilege.

(3) INFORMATION FROM FEDERAL AGENCIES.—The Commission may secure directly from any Federal department or agency such information as the Commission considers necessary to carry out the provisions of this section. Upon request of the Commission, the head of such department or agency shall furnish such information to the Commission.

(4) HEARINGS.—The Commission may hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence as the Commission considers advisable to carry out the objectives of this section, except that, to the extent possible, the Commission shall use existing data and research.

(5) POSTAL SERVICES.—The Commission may use the United States mails in the same manner and under the same conditions as other departments and agencies of the Federal Government.

(e) REPORT.—Not later than 1 year after all of the members are appointed to the Commission

under subsection (c)(1), the Commission shall submit to Congress a report that summarizes the findings of the Commission and makes such recommendations for legislation as are consistent with this Act.

(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Equal Employment Opportunity Commission such sums as may be necessary to carry out this section.

SEC. 209. CONSTRUCTION.

Nothing in this title shall be construed to—

(1) limit the rights or protections of an individual under the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.), including coverage afforded to individuals under section 102 of such Act (42 U.S.C. 12112), or under the Rehabilitation Act of 1973 (29 U.S.C. 701 et seq.);

(2)(A) limit the rights or protections of an individual to bring an action under this title against an employer, employment agency, labor organization, or joint labor-management committee for a violation of this title; or

(B) establish a violation under this title for an employer, employment agency, labor organization, or joint labor-management committee of a provision of the amendments made by title I;

(3) limit the rights or protections of an individual under any other Federal or State statute that provides equal or greater protection to an individual than the rights or protections provided for under this title;

(4) apply to the Armed Forces Repository of Specimen Samples for the Identification of Remains;

(5) limit or expand the protections, rights, or obligations of employees or employers under applicable workers' compensation laws;

(6) limit the authority of a Federal department or agency to conduct or sponsor occupational or other health research that is conducted in compliance with the regulations contained in part 46 of title 45, Code of Federal Regulations (or any corresponding or similar regulation or rule); and

(7) limit the statutory or regulatory authority of the Occupational Safety and Health Administration or the Mine Safety and Health Administration to promulgate or enforce workplace safety and health laws and regulations.

SEC. 210. MEDICAL INFORMATION THAT IS NOT GENETIC INFORMATION.

An employer, employment agency, labor organization, or joint labor-management committee shall not be considered to be in violation of this title based on the use, acquisition, or disclosure of medical information that is not genetic information about a manifested disease, disorder, or pathological condition of an employee or member, including a manifested disease, disorder, or pathological condition that has or may have a genetic basis.

SEC. 211. REGULATIONS.

Not later than 1 year after the date of enactment of this title, the Commission shall issue final regulations in an accessible format to carry out this title.

SEC. 212. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as may be necessary to carry out this title (except for section 208).

SEC. 213. EFFECTIVE DATE.

This title takes effect on the date that is 18 months after the date of enactment of this Act.

TITLE III—MISCELLANEOUS PROVISION

SEC. 301. SEVERABILITY.

If any provision of this Act, an amendment made by this Act, or the application of such provision or amendment to any person or circumstance is held to be unconstitutional, the remainder of this Act, the amendments made by this Act, and the application of such provisions to any person or circumstance shall not be affected thereby.

The committee amendment in the nature of a substitute was agreed to.

The amendment (No. 1824) was agreed to.

(The amendment is printed in today's RECORD under ''Text of Amendments.'')

Mr. FRIST. Mr. President, this legislation and the unanimous consent that was just obtained signifies an important accomplishment of this body but an accomplishment that resulted after about 6 years of work. As with so much important legislation, I think we sometimes take for granted how much work it takes to get to a certain point. Then when we present the bill, debate the bill, and then pass the bill, we move very quickly on to other issues.

What the unanimous consent just said was that we will be voting on this Tuesday when we get back from recess; that all time for debate and discussion on this particular issue, which I should add over the last 6 years has been debated a lot on this floor, will have been exhausted.

For more than 6 years, Members of this body have worked on this issue. I have worked with Senator OLYMPIA SNOWE for about 5¾ years, along with Senators JEFFORDS, ENZI, GREGG, HAGEL, COLLINS, and DEWINE on this issue of genetic nondiscrimination. Today, with the invaluable contributions of Senators DASCHLE and KENNEDY, we bring to the Senate floor this solid, important, significant legislation that, if I had to summarize, I would say provides individuals, citizens, patients, with strong protections against the potential of genetic discrimination in health insurance.

I especially want to take this opportunity to commend the chairman of the Health, Education, Labor and Pensions Committee, Chairman JUDD GREGG, for his leadership on this issue. In large part, it is due to his passion and commitment to this issue, to the principle of fairness and of equity, which has driven this process forward.

I also commend President Bush for his dedication in ensuring strong protections against genetic discrimination and for bringing attention to this critical matter.

When we began work on this issue many years ago, we were looking ahead at what we anticipated, which was the anticipation of the decoding of the human genome. At that time, we looked to the future. We wanted to preempt potential problems. Yes, it has taken 6 years, but finally with passage a week from next Tuesday we can be satisfied that we accomplished that goal set out 6 years ago.

This decoding of the human genome, which is about 3 billion bits of information that we did not have 15 years ago that we have now, has been accomplished. In fact, it was this year that scientists, working in collaboration with the National Human Genome Research Institute at the National Institutes of Health, published a final draft documenting the sequence of the entire human genetic code.

The publication of this final draft occurred more than 2 years ahead of schedule and almost 50 years to the day from the historic publication by Dr. James Watson and Dr. Francis Crick of DNAs double helix.

This dazzling accomplishment has begun to usher in a whole new era of medical understanding. It has already begun to expand our understanding of human development and health, as well as disease. For example, the discovery of disease genes holds great promise. Based on this discovery, scientists may be able to design drugs to treat specific genes and genetic defects. Organs and tissues may be specifically engineered for use in transplantation. Preventive care will be based in part on genetic testing.

This explosion of knowledge, these tremendous advances in science and technology, are also fraught with risk, which this legislation will minimize.

When I first joined Senator SNOWE in this effort several years ago, at that point in time almost a third, one out of three, of the women offered a test for breast cancer risk at the National Institutes of Health declined the test. The reason they gave at that time for declining the test was that the result might in some way be made available to an insurance company which would then use that data, that information, to discriminate against them in whether health insurance would be issued to them.

I think it is a tremendous example of the danger of having a threat of discrimination, preventing one from getting a test that might be useful to them. Thus, that example led me to strongly believe then, and I do now, that we must protect people from the threat of genetic information in any way being used against them. That is a practical responsibility. It is a moral responsibility and it is one with this legislation that this body speaks to directly.

Simply stated, if unchecked, the fear of genetic discrimination would have the potential of keeping people from participating in very useful research studies. It had the potential for keeping people from taking advantage of new genetic technologies, and it had the potential of keeping an individual from having the opportunity to obtain information that demonstrated that they are not at risk for a potential genetically determined disease.

The fear of genetic discrimination has the potential to prevent citizens from making informed health decisions for themselves or their loved ones.

Congress, of course, has a rich history in battling against discrimination, most notably through the landmark 1964 Civil Rights Act. We think also of the 1990 Americans With Disabilities Act and the Health Insurance Portability and Accountability Act. The legislation before us now extends those very same protections to citizens who have genetic markers, a move that, ultimately, I believe, through this legislation, will allow us to save lives.

Genetic research, this unraveling of the genetic code, genetic testing will undoubtedly unleash tremendous advances to the benefit of mankind—thrilling advances, possible cures to illnesses today that seem vexing, that we do not fully understand. The potential medical advances from our knowledge of the human genome will be more dramatic than any of the advances that I had the opportunity to directly participate in over 20 years in the practice of medicine—just from this single unraveling of the genetic code.

As we greet the future, as we look at new technology, this is just one example of this body acting proactively, acting preemptively, so that such potential use in a discriminatory fashion of medical advances is kept from hurting the American people. We must take care to protect our body politic, and this legislation does just that. I am pleased by the progress we have made thus far, and I do congratulate each of my colleagues on their dedication to this issue over the last several years.

This legislation stands squarely on our time-tested civil rights laws establishing comprehensive, equitable, fair, consistent, and reasonable protections. I strongly support this bill, and I look forward to its swift passage when we vote on Tuesday, following our recess.

Mr. GREGG. Mr. President, this year we celebrated the 50 year anniversary of the now fabled discovery by Watson and Crick of the double helix. And this year the scientists at the NIH Human Genome Project completed the sequencing of human DNA.

These are major historical developments that will permanently change the course of biological science. The color of our eyes and the treatment of disease are now understood through the lens of genetics. As the science has progressed, so too have reservations with what we will do with this new information we are uncovering. Unlocking our genetic code unleashes new power. And power produces new responsibilities in protecting the privacy of our genetic information and protecting it from misuse.

Scientific advances in field of genetics hold great promise for medical prevention of new treatments and therapies. However, because our public policies lag behind the science, the promise of the Human Genome Project is going unfulfilled. Individuals are afraid to get genetic tests or seek genetic counseling out of fear that they will lose their health insurance or face discrimination in their employment.

After 6 years, numerous hearings, and hours of deliberation, I am pleased the Senate is finally taking up this important legislation, which was unanimously reported out of the Health, Education, Labor, and Pensions Committee on May 21, 2003. I am also pleased that the first civil rights legislation adopted under my chairmanship deals with an issue of truly 21st century concerns. This is the first civil rights act of the 21st century.

Genetic discrimination is an issue that affect all Americans. Everyone has genes. Everyone has hereditary medical traits. It's a non-partisan issue. This is reflected in the fact that this legislation is truly a bipartisan product. For more than a year, the HELP Committee has worked hard to marry together two major pieces of legislation—one sponsored by Senators SNOWE/FRIST/JEFFORDS and the other sponsored Senators DASCHLE and KENNEDY.

This legislation established in Federal law basic legal protections that prohibit discrimination in health insurance or employment based on genetic information.

A key component of the legislation is its privacy provisions. Although current law already contains medical privacy rules covering genetic information, this legislation addresses some additional concerns and closes loopholes that are unique to genetics. For instance, it protects the privacy of genetic information at work and prohibits the use of genetic information in health insurance underwriting.

This bill prohibits an employer from making employment decisions—hiring, firing, etc.—based on genetic information, or even that fact than an individual or family member requested or received genetic services.

This bill prohibits health insurance plans from denying eligibility or enrollment in the health plan based on genetic information. And it prohibits health insurance plans from charging higher premiums based on an individual's—or his or her family member's—genetic information.

Most importantly, the legislation recognizes that all individuals, whether they are healthy or sick, and all medical information, whether genetic or otherwise, should be afforded the same protections under law.

While genetic discrimination may not be widespread at this point in time, this legislation ensures that discriminatory practices will never become common practice. From the past we have learned that employees, employers, insurers and others all work best together when the rules are clear and opportunities for personal achievement and health are available. This legislation tells everyone what is expected of them and avoids the trip wires and uncertainty of some of our existing laws.

Any concerns about new regulations on employers or health plans are far outweighed by the benefits of scientific advances that will further revolutionize the medical field. With no silver bullet solution in sight to cure what ails our expensive and troubled health care system, I believe all stakeholders will welcome reasonable legislation that fosters medical advances that can lead to prevention and cure disease.

It is my hope that the bipartisan spirit that brought the parties together to craft this historic legislation will continue as we seek to realize the full potential of the human genome project.

The PRESIDING OFFICER. Without objection, S. 1053 is considered read a third time.

Mr. FRIST. Mr. President, I yield back all time on both sides, and I ask the bill be set aside.

The PRESIDING OFFICER. Without objection, it is so ordered.

EXECUTIVE SESSION

EXECUTIVE CALENDAR

Mr. FRIST. Mr. President, I ask unanimous consent that the Senate immediately proceed to executive session to consider the following nominations on today's Executive Calendar, Calendar Nos. 388 and 389. I further ask unanimous consent the nominations be confirmed, the motions to reconsider be laid upon the table, the President be immediately notified of the Senate's action, and the Senate then return to legislative session.

The PRESIDING OFFICER. Without objection, it is so ordered.

The nominations considered and confirmed are as follows:

ARMY

The following named officer for appointment as Vice Chief of Staff, United States Army, and appointment to the grade indicated while assigned to a position of importance and responsibility under title 10, U.S.C., sections 601 and 3034:

To be general

Lt. Gen. George W. Casey, Jr., 1204.

NAVY

The following named officer for appointment in the United States Navy to the grade indicated while assigned to a position of importance and responsibility under title 10, U.S.C., section 601:

To be vice admiral

Rear Adm. David C. Nichols, Jr., 5011.

LEGISLATIVE SESSION

The PRESIDING OFFICER. Under the previous order, the Senate will return to legislative session.

AUTHORIZING REGULATIONS RELATING TO THE USE OF OFFICIAL EQUIPMENT

Mr. FRIST. I ask unanimous consent the Senate proceed to the immediate consideration of S. Res. 238, which was submitted earlier today.

The PRESIDING OFFICER. The clerk will report the resolution by title.

The legislative clerk read as follows:

A resolution (S. Res. 238) authorizing regulations relating to the use of official equipment.

There being no objection, the Senate proceeded to consider the resolution.

Mr. FRIST. I ask unanimous consent the resolution be agreed to, the motion to reconsider be laid on the table, and any statements relating to this matter be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolution (S. Res. 238) was agreed to, as follows:

S. RES. 238

Resolved, That (a) the Committee on Rules and Administration of the Senate may issue regulations to authorize a Senator or officer or employee of the Senate to use official equipment for purposes incidental to the conduct of their official duties.

(b) Any use under subsection (a) shall be subject to such terms and conditions as set forth in the regulations.

APPOINTMENTS

The PRESIDING OFFICER. The Chair, on behalf of the President pro tempore, and in consultation with the chairman and the ranking minority member of the Finance Committee, pursuant to Public Law 103–296, appoints Sylvester J. Schieber, of Maryland, as a member of the Social Security Advisory Board for a 6-year term.

The Chair, on behalf of the President pro tempore, pursuant to Public Law 99–498, appoints Rene Drouin of New Hampshire, vice Charles Terrell of Massachusetts, to the Advisory Committee on Student Financial Assistance for a 3-year term.

ORDERS FOR FRIDAY, OCTOBER 3, 2003

Mr. FRIST. I ask unanimous consent that when the Senate completes its business today, it adjourn until 9:30 a.m. Friday, October 3. I further ask that following the prayer and pledge, the morning hour be deemed expired, the Journal of proceedings be approved to date, the time for the two leaders be reserved for their use later in the day, and the Senate then begin a period of morning business for up to 30 minutes with the first 15 minutes under the control of the minority leader or his designee and the second 15 minutes under the control of the majority leader or his designee; provided that following morning business the Senate resume consideration of S. 1689, the Iraq/Afghanistan Supplemental Appropriations bill.

The PRESIDING OFFICER. Is there objection?

The assistant minority leader.

Mr. REID. Everyone within the sound of our voice, staff, Members, should understand that tomorrow is a free day. They can come and offer amendments. They might have to wait for a minute until someone else offers an amendment. They can speak as long as they want. Tomorrow is the day that people have the opportunity to offer amendments.

We are going to come back Tuesday after the recess. We have a lot of work to do. If we get amendments laid down, the two leaders can set up a time we can vote on them and finish debating them. So I hope people understand tomorrow is an excellent day for the offering of amendments.

No objection.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. FRIST. For the information of all Senators, tomorrow morning, as was just pointed out, following morning business, the Senate will resume consideration of the Iraq/Afghanistan Supplemental Appropriations bill. There will be no rollcall votes during tomorrow's session. Senators will have the opportunity throughout tomorrow to come to the floor and offer amendments on the bill. However, no action will occur on any of the amendments tomorrow.

Under a previous order, the next rollcall vote will occur Tuesday, October 14, at 2:30 p.m.

ADJOURNMENT UNTIL 9:30 A.M. TOMORROW

Mr. FRIST. If there is no further business to come before the Senate, I ask unanimous consent the Senate stand in adjournment under the previous order.

There being no objection, the Senate, at 9:36 p.m., adjourned until Friday, October 3, 2003, at 9:30 a.m.

NOMINATIONS

Executive nominations received by the Senate October 2, 2003:

NATIONAL COMMISSION ON LIBRARIES AND INFORMATION SCIENCE

JOSE ANTONIO APONTE, OF COLORADO, TO BE A MEMBER OF THE NATIONAL COMMISSION ON LIBRARIES AND INFORMATION SCIENCE FOR A TERM EXPIRING JULY 19, 2007, VICE MARTHA B. GOULD, TERM EXPIRED.

NATIONAL COMMISSION ON LIBRARIES AND INFORMATION SCIENCE

SANDRA FRANCES ASHWORTH, OF IDAHO, TO BE A MEMBER OF THE NATIONAL COMMISSION ON LIBRARIES AND INFORMATION SCIENCE FOR A TERM EXPIRING JULY 19, 2004, VICE PAULETTE H. HOLAHAN.

EDWARD LOUIS BERTORELLI, OF MASSACHUSETTS, TO BE A MEMBER OF THE NATIONAL COMMISSION ON LIBRARIES AND INFORMATION SCIENCE FOR A TERM EXPIRING JULY 19, 2005, VICE C. E. ABRAMSON, TERM EXPIRED.

CAROL L. DIEHL, OF WISCONSIN, TO BE A MEMBER OF THE NATIONAL COMMISSION ON LIBRARIES AND INFORMATION SCIENCE FOR A TERM EXPIRING JULY 19, 2005, VICE WALTER ANDERSON, TERM EXPIRED.

ALLISON DRUIN, OF MARYLAND, TO BE A MEMBER OF THE NATIONAL COMMISSION ON LIBRARIES AND INFORMATION SCIENCE FOR A TERM EXPIRING JULY 19, 2006, VICE REBECCA T. BINGHAM, TERM EXPIRED.

BETH FITZSIMMONS, OF MICHIGAN, TO BE A MEMBER OF THE NATIONAL COMMISSION ON LIBRARIES AND INFORMATION SCIENCE FOR A TERM EXPIRING JULY 19, 2006, VICE JOSE-MARIE GRIFFITHS, TERM EXPIRED.

PATRICIA M. HINES, OF SOUTH CAROLINA, TO BE A MEMBER OF THE NATIONAL COMMISSION ON LIBRARIES AND INFORMATION SCIENCE FOR A TERM EXPIRING JULY 19, 2005, VICE LAVAR BURTON, TERM EXPIRED.

COLLEEN ELLEN HUEBNER, OF WASHINGTON, TO BE A MEMBER OF THE NATIONAL COMMISSION ON LIBRARIES AND INFORMATION SCIENCE FOR A TERM EXPIRING JULY 19, 2007, VICE JEANNE HURLEY SIMON.

STEPHEN M. KENNEDY, OF NEW HAMPSHIRE, TO BE A MEMBER OF THE NATIONAL COMMISSION ON LIBRARIES AND INFORMATION SCIENCE FOR A TERM EXPIRING JULY 19, 2007, VICE DONALD L. ROBINSON.

BRIDGET L. LAMONT, OF ILLINOIS, TO BE A MEMBER OF THE NATIONAL COMMISSION ON LIBRARIES AND INFORMATION SCIENCE FOR A TERM EXPIRING JULY 19, 2008, VICE MARILYN GELL MASON, TERM EXPIRED.

MARY H. PERDUE, OF MARYLAND, TO BE A MEMBER OF THE NATIONAL COMMISSION ON LIBRARIES AND INFORMATION SCIENCE FOR A TERM EXPIRING JULY 19, 2008, VICE FRANK J. LUCCHINO, RESIGNED.

HERMAN LAVON TOTTEN, OF TEXAS, TO BE A MEMBER OF THE NATIONAL COMMISSION ON LIBRARIES AND INFORMATION SCIENCE FOR A TERM EXPIRING JULY 19, 2008, VICE BOBBY L. ROBERTS, TERM EXPIRED.

IN THE AIR FORCE

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES AIR FORCE TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10 U.S.C., SECTION 601:

To be lieutenant general

MAJ. GEN. WILLIAM WELSER III, 0000

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES AIR FORCE TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10 U.S.C., SECTION 601:

To be lieutenant general

MAJ. GEN. GARRY R. TREXLER

PUBLIC HEALTH SERVICE

THE FOLLOWING CANDIDATES FOR PERSONNEL ACTION IN THE REGULAR COMPONENT OF THE PUBLIC HEALTH SERVICE SUBJECT TO QUALIFICATIONS THEREFOR AS PROVIDED BY LAW AND REGULATIONS:

1. FOR APPOINTMENT:

To be medical director

VINCENT A. BERKLEY
ROBERT D. BREWER III
DAVID J. LIPMAN
GRIFFIN P. RODGERS
JOSE H. RODRIGUEZ
ANDREW A. VERNON

To be senior surgeon

ROBERT F. BRANCHE
ROBERT F. BREIMAN
SCOTT D. DEITCHMAN
JEFFREY L. JONES
DAVID C. RUTSTEIN
HILLARD S. WEINSTOCK

To be surgeon

THOMAS W. HENNESSY
NEWTON E. KENDIG
MARK N. LOBATO
ERIC A. MANN
AUBREY K. MILLER
MARK A. MILLER
ELENA H. PAGE
JAY P. SIEGEL
MARK J. TEDESCO

To be senior assistant surgeon

ELISE A. BELTRAMI
ANTHONY B. CAMPBELL
COY B. FULLEN
JULIE M. MAGRI
JOEL D. SELANIKIO
MITCHELL I. WOLFE

To be dental surgeon

MICHAEL R. KWASINSKI
DEBORAH R. NOYES
SUSAN B. TIEDE
RICK D. VACCARELLO
GREGORY WHELAN

To be senior assistant dental surgeon

ROBERT T. DVORAK
DAVID C. FEIST
TANYA T. HOLLINSHED-MILES
JAMES J. PALERINO
ALAN C. PETERSON
STEVEN K. RAYES
KRISTIN E. SHAHAN
LYNN C. VAN PELT
CLAUDIA G. VONHENDRICKS

To be senior nurse officer

ELIZABETH A. AUSTIN
JACQUELYN A. POLDER

To be nurse officer

SUSAN K. FRITZ
LONNA J. GUTIERREZ
DAVID W. KELLY
CAROL L. KONCHAN
STEPHANIE V. MIDDLETON
MAURICE M. SHEEHAN
TONI JOY SPADARO

To be senior assistant nurse officer

KEVIN J. BARTLETT
SALLY E. BROWN
BRIAN R. CRONENWETT
BERNADETTE DAYZIE
IRENE H. DUSTIN
JAMES L. GIBSON
JUDY L. GLENN
DE ALVA HONAHNIE
MARK A. JIMENEZ
EUNICE F. JONES-WILLS
RONALD D. KEATS
JANIE M. KIRVIN
DEBORAH L. LAKE
LESLIE R. LIGHTWINE
LORI M. LUU
STEPHANIE C. MANGIGIAN
MOIRA G. MCGUIRE
DEBRA J. MCKELLIPS
ANTHONY E. MILLKAMP
CATHERINE B. MOSHIER
MICHELE E. NEHREBECKY
MADELYN RENTERIA
JAMES L. VICKROY
BRYAN E. WEAVER
DOMINIC T. WESKAMP

To be assistant nurse officer

FELICIA A. ANDREWS
MICHELLE E. BROWN-STEPHENSON
MICHAEL W. FORBES

BARBARA A. FULLER
SHERRY L. MCREYNOLDS
DARYL W. PERRY
JANET E. SEEGERS

To be senior assistant engineer officer

KEITH E. FOY
RICHARD J. GELTING
RAMSEY D. HAWASLY
ROBERT J. LORENZ
ERIC L. MATSON
MARY C. MINER
PETER T. NACHOD
DELREY K. PEARSON
MARJORIE E. WALLACE

To be assistant engineer officer

MATHEW J. MARTINSON
BRENT D. ROHLFS

To be scientist director

CHRISTINE J. LEWIS

To be senior scientist

LYNDA S. DOLL
SHARON O. WILLIAMS-FLEETWOOD

To be scientist

DAVID A. CRAGO
LAUREN C. IACONO-CONNORS

To be senior assistant scientist

LISA J. COLPE
KIERAN J. FOGARTY
FRANK R. HERSHBERGER
DOUGLAS A. THOROUGHMAN

To be senior assistant sanitarian

KIMBERLY K. CHAPMAN
LISA J. FLYNN
CHRISTOPHER T. KATES
DUANE M. KILGUS
ROBERT B. KNOWLES
JENNIFER M. LINCOLN
KATHY S. SLAWSON
JOHN D. SMART
ELIZABETH B. WRIGHT

To be senior veterinary officer

DOUGLAS A. POWELL

To be senior assistant veterinary officer

KAMELA D. EVANS-DAVIS
KATHERINE A. HOLLINGER

To be senior pharmacist

JENEVA S. ARNOLD
JOAN C. GINETIS
JOHN C. NIDIFFER

To be pharmacist

KENT L. REDLAND

To be senior assistant pharmacist

JAMES L. BRESETTE
CAROLE C. BROADNAX
TAMARA A. CLOSE
DEBRA A. DOTSON
MELINA N. FANARI
WALTER L. FAVA
LOUIS E. FELDMAN
RICHARD K. GLABACH
JANETTE L. HARRELL
PAUL E. HUNTZINGER
EUN S. JEON
TENA L. JESSING
DAVID J. KATSULES
KOUNG U. LEE
HOUDA MAHAYNI
ERIC M. MUELLER
SANDRA M. SHIPP
GREGORY W. SMITH
LISA P. SMITH
KIMBERLY A. STRUBLE
DEREK E. TESCHLER
DEBORAH J. THOMPSON
ROBERT J. TOSATTO
JACQUELINE H. WARE
NINA L. WATSON
EDWARD N. YALE

To be assistant pharmacist

CHRISTOPHER RON CRAZYTHUNDER
GREGORY S. DAVIS
ROSS P. GREEN
NASSER MAHMUD
VLADA MATUSOVSKY

To be senior dietitian

EDITH M. CLARK

To be senior assistant dietitian

JEAN M. KELAHAN
ELAINE B. LITTLE
APRIL P. SMITH

To be senior assistant therapist

SCOTT P. GUSTAD
RICHARD SHUMWAY
RONALD R. WEST

To be senior health services officer

ROBERT A. LATINA

To be health services officer

THEODORE P. CHIAPPELLI
MARGARET A. MCDOWELL
DIANE L. RULE
WILLIAM BOYD WYETH

To be senior assistant health services officer

JOHN J. CARDARELLI II
THOMAS A. COSTELLO
MONICA R. KUENY
KIMBERLY M. LEWANDOWSKI-WALK
MONICA PASQUALE RUEBEN
DELORES E. STARR
SYLVIA J. TETZLAFF
BRUCE W. TOPEY

To be assistant health services officer

NADINE R. BROWN
ELIZABETH A.HASTINGS
BETH ANNE HENSON
KAREN J. SICARD
JAMES A. SYMS

CONFIRMATIONS

Executive nominations confirmed by the Senate October 2, 2003:

THE JUDICIARY

WILLIAM Q. HAYES, OF CALIFORNIA, TO BE UNITED STATES DISTRICT JUDGE FOR THE SOUTHERN DISTRICT OF CALIFORNIA.

JOHN A. HOUSTON, OF CALIFORNIA, TO BE UNITED STATES DISTRICT JUDGE FOR THE SOUTHERN DISTRICT OF CALIFORNIA.

ROBERT CLIVE JONES, OF NEVADA, TO BE UNITED STATES DISTRICT JUDGE FOR THE DISTRICT OF NEVADA.

PHILIP S. FIGA, OF COLORADO, TO BE UNITED STATES DISTRICT JUDGE FOR THE DISTRICT OF COLORADO.

IN THE ARMY

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT AS VICE CHIEF OF STAFF, UNITED STATES ARMY, AND APPOINTMENT TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTIONS 601 AND 3034:

To be general

LT. GEN. GEORGE W. CASEY, JR.

IN THE NAVY

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES NAVY TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

To be vice admiral

REAR ADM. DAVID C. NICHOLS, JR.

EXTENSIONS OF REMARKS

IN MEMORIAM OF WAYNE A. STEEN, SR.

HON. MICHAEL N. CASTLE

OF DELAWARE

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 2, 2003

Mr. CASTLE. Mr. Speaker, I rise today to honor and pay tribute to a leader in the volunteer fire services community, Wayne A. Steen, Sr., of Delaware. This Sunday, October 5, 2003, Mr. Steen will be honored as part of the National Fallen Firefighters Memorial in Emmitsburg, Maryland.

Wayne passed away in September of 2001, due to complications from an aneurysm he suffered while responding to a fatal traffic accident in 1995. Along with his family, I am pleased that Wayne will now receive the national recognition that he deserves for his dedication to the fire services community and to public safety.

Wayne dedicated 34 years of public service to the Mill Creek Fire Company where he held numerous offices before becoming Deputy Chief. Wayne was also an officer of the Delaware State Fire Chiefs Association and a life member of New Castle County Fire Chiefs Association, the Eastern Division of the International Association of Fire Chiefs, and the Delaware Valley Fire Chiefs Association. In 1996, Wayne was named Honorary Deputy Chief and given the President's Award by the Mill Creek Fire Company. Such honors serve as a testament to Wayne's selfless devotion to public safety, and it is fitting that the Nation now join his colleagues at the Mill Creek Fire Company in recognizing Wayne's exceptional leadership and service record.

This Sunday, Wayne Steen, Sr.'s contributions to the fire services, along with those of 104 additional fallen firefighters will be memorialized at the National Fallen Firefighters Memorial, and their names will be added to the roll of fallen heroes. His commitment to public service has earned him a place in our Nation's fire services' history. Wayne's selflessness and dedication to the safety of others will always remain in our memories.

CUBS WIN!

HON. RAHM EMANUEL

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 2, 2003

Mr. EMANUEL. Mr. Speaker, I rise with great pride following last night's National League Central Division champion Chicago Cubs' first playoff victory on the road since 1945.

I am proud to represent tens of thousands of loyal and patient Cubs fans who have so patiently waited for this opportunity to compete for its first National League Pennant in almost 60 years and its first World Series title since 1908. 1 join the City of Chicago in cheering for the Cubs to overcome history by this year's nearly 90 wins and first place in the Central division.

I think most long-time Cubs fans would agree that there could not have been a more exciting route to the playoffs than the 2003 season. All season long, Chicago traded first place back and forth with the Houston Astros in the major league's most competitive division. After this weekend's victory against Pittsburgh, jubilant fans remained celebrating in the stands an hour after the game as Cubs players jogged around the perimeter of the field to salute their fans and soak up the delirious atmosphere at Wrigley Field.

Those of us on Chicago's north side are especially grateful for the arrival of first-year manager Dusty Baker, his winning attitude and proven leadership on the field and in our community. Dusty and his outstanding coaching staff made believers out of the players and Cubs fans. He held our team together during some of the season's most difficult times.

We must attribute much of this year's success to Dusty's clever off season personnel moves and Sammy Sosa's great batting, including his towering 40th home run this past weekend that made him the first player in National League history to hit 40 home runs in six consecutive seasons. This historic feat was achieved on top of slamming his 500th home run earlier this season. Sammy has become as much a part of Chicago as the stuffed pizza and Navy Pier. His pride in his native Dominican Republic is but one example of the cultural diversity that makes Chicago the great city it is today, and how baseball has been woven into the fabric of our Nation's history.

When I attended one of the Cub's home victories earlier this year, I was joined by the Chaplain of the House of Representatives, The Rev. Daniel P. Coughlin, before the game to honor his 89-year-old mother, Louise Coughlin, as the Cub's Usher of the Year. Moments like these and the team's winning ways are what made 2003 such a special season and why I will always be proud to represent the Cubs in Congress.

Mr. Speaker, I salute the Cubs for their first-place finish, and I join with the entire City of Chicago and Cubs fans everywhere in wishing them continued success in the playoffs. I join Cubs fans in cheering that one of baseball's most storied franchises ends a nearly century long championship drought. Win or lose, Chicagoans will be always be proud of their Cubs.

A JOB FOR THE JUDICIARY COMMITTEE

HON. MARK UDALL

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 2, 2003

Mr. UDALL of Colorado. Mr. Speaker, a recent editorial in the Denver Post calls on the Judiciary Committee to perform the oversight function of calling Attorney General John Ashcroft to account.

The editorial evidently was prompted by the Attorney General's recent move to restrict plea bargaining in federal criminal cases. I think the editorial has it just right, and I urge the Judiciary Committee to promptly begin hearings on this and other Justice Department policies under the current administration. For the information of our colleagues, I am attaching the full text of the Denver Post editorial.

ASHCROFT'S PLEA PLOY

Attorney General John Ashcroft's scheme to make it tougher for federal prosecutors to reach plea bargains with criminal defendants is an ill-considered proposal that bespeaks an unrealistic view of the capacity of the American court system. Some observers say Ashcroft's plan is merely a ploy to make his boss, President George W. Bush, look tough on crime for the 2004 election. But all this sound-bite buffoonery accomplishes is to make the Bush administration look patently stupid. Even the greenest cub reporter on the federal court beat learns quickly that more than 90 percent of federal criminal cases are settled with plea bargains. Defendants plead guilty, often to a lesser charge or fewer counts, and this is taken into account at sentencing.

Plea bargains avoid going to trial in federal courts where dockets already are critically crowded. In exchange for guilty pleas, defendants can get some reduction in sentences, although formulaic federal sentencing guidelines adopted in the 1980s give judges very little discretion. The U.S. Justice Department says the new policy is intended to counter dangerously lenient sentencing practices by some federal judges. Utter nonsense. It's no accident our federal prisons are jammed to the rafters. And Ashcroft's claim to be acting in the interest of fairness is beyond laughable.

We recall that when the late Dale Tooley ran for Denver district attorney in 1972, he excoriated his predecessor for plea bargaining. Once elected, though, Tooley quickly realized the deals were necessary to prevent hopeless logjams in court. Even former federal prosecutors told The New York Times that Ashcroft's approach was too rigid. ''A check-the-box analysis really does mask differences,'' said a former top Manhattan fed. ''Crimes are different, places are different, people are different.'' Beyond being unrealistic, at times it seems that Ashcroft is intent on dismantling most of the traditional safeguards and liberties so venerated by President Bush's conservative constituency. He is the chief architect of the USA Patriot Act, which has eroded basic constitutional freedoms.

He has secretly proposed being given sweeping, arbitrary powers in the name of national security while debasing constitutional guarantees against illegal search and seizure and seeking broad powers to tap phones and other communications without court supervision. He has asked Congress for greater latitude in seeking the death penalty and to expand the crimes for which it can be imposed. He has asked his minions in U.S. attorneys' offices to keep tabs on which federal district judges mete out sentences more lenient than sentencing guidelines. He has assailed the ancient common-law concept of

proportionality in sentencing and the concept of an independent judiciary.

Ashcroft's Machiavellian attacks on fundamental liberties under the pretext of combatting international terrorism are a betrayal of his oath to uphold the Constitution. President Bush should jerk Ashcroft's leash. Failing that, the judiciary committees of Congress should.

RECOGNIZING JOSÉ-LUIS OROZCO FOR HIS COMMITMENT TO BILINGUAL EDUCATION

HON. ELLEN O. TAUSCHER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 2, 2003

Mrs. TAUSCHER. Mr. Speaker, I rise to pay tribute to José-Luis Orozco, whose commitment to bilingual education is being honored by the National Hispanic Caucus and the National Association for Bilingual Education (NABE) in Washington D.C.

Throughout the last quarter century, José-Luis Orozco has established himself as one of the premier bilingual educators in the United States. His accomplishments and hard work as an author, songwriter, performer and recording artist in the field of bilingual education will be recognized and commemorated in our nation's capital today.

Born in Mexico City, José-Luis Orozco discovered his love of music at a young age under the influence of his paternal grandmother. At age 8, he joined the Mexico City Boys Choir, traveling to 32 countries where he gained the cultural knowledge he shares with children through his wonderful books and songs.

At age 19, Orozco immigrated to California where he gained a bachelors degree at the University of California, Berkeley and a Masters in Multicultural Education from the University of San Francisco.

Originally a teacher, José-Luis Orozco found his true passion in sharing with children the songs and rhymes he picked up on his world travels.

Over his more than 30 year career as an author, songwriter, performer and recording artist, José-Luis Orozco has shared his work with millions of children throughout the country. He has recorded 13 volumes of Lirica Infantil, Latin American children's music, and written two award winning books, Diez Deditos (Ten Little Fingers) and De Colores and other Latin American Folk Songs for Children. These works have become an essential teaching tool used in tens of thousands of multilingual classrooms across the country.

José-Luis Orozco's determination to enrich the lives of children has made him a true legend in multilingual education. The world will forever remember José-Luis Orozco as the educator who has and will continue to make learning fun for millions of children through the medium of music.

IN RECOGNITION OF NATIONAL FIRE PREVENTION WEEK

HON. MICHAEL N. CASTLE

OF DELAWARE

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 2, 2003

Mr. CASTLE. Mr. Speaker, it is with great sadness that I rise today to honor and pay tribute to a leader in the volunteer fire services community, Louis A. Rickards, of Lewes, Delaware. A tireless advocate, Mr. Rickards was a dedicated leader within the fire community. Tragically, on February 3, 2002, Louis Rickards passed away. This Sunday, October 5, 2003, Mr. Rickards' admirable life will be honored as part of the National Fallen Firefighters Memorial in Emmitsburg, Maryland.

Not surprisingly at the time of his death, Louis was on his way to a Delmarva Volunteer Fireman's Association Executive Meeting in Virginia, a lasting example of the dedication Louis gave to the firefighting community throughout his 39 years of service. His level of devotion to the community is exceptional among individuals, and his record of service is exemplary.

Louis began his career with the Lewes Volunteer Fire Company at age sixteen as a volunteer firefighter, then rising in the ranks to serve as Fire Chief for seven years, and as the Company's President for thirteen terms until his death in 2002. His passion for the fire services extended beyond the walls of the fire house, and he shared this with others as the primary author of a book published on the 100th year anniversary of the Lewes Volunteer Fire Company. Louis further demonstrated his commitment to public safety as a member of the Delaware State police, retiring after 25 years of service.

This Sunday, Louis Rickards' accomplishments, along with those of 104 additional fallen firefighters will be memorialized at the National Fallen Firefighters Memorial, and their names will be added to the roll of fallen heroes. His commitment to public service has earned him a place in our Nation's fire services' history, and he remains in our memories as an example for those who wish to dedicate their lives to the safety of others.

THANKING SUPPORTERS OF THE RAVENSWOOD LINE REHABILITATION

HON. RAHM EMANUEL

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 2, 2003

Mr. EMANUEL. Mr. Speaker, I rise today to express my appreciation to the members of the Transportation Appropriations Committee for their leadership in support of the rehabilitation and expansion of Chicago's Ravenswood Elevated Line.

Built more than a century ago, the Ravenswood Line, known by Chicagoans as the ''Brown Line,'' is one of the City's fabled elevated trains and serves as a vital link between the area that I'm proud to represent—the northwest side—and downtown. Along the way, it winds through some of Chicago's historic neighborhoods: Ravenswood, North Center, Wrigleyville, Lakeview, Lincoln Park, and of course, the Loop.

With more than 60,000 commuters each day, ridership has increased approximately 73 percent since 1979. In the past year alone, the number of riders has increased by 10 percent, the highest rate of growth anywhere in the Chicago Transit Authority's (CTA) rail transportation system.

Because of the Brown Line's age, it can only accommodate six-car trains, and not the eight-car trains used elsewhere on the CTA system. Thus, the Ravenswood Line is not able to handle the growing demand. In fact, it is not unusual for commuters to wait several full trains before being able to board a train in the morning rush hour. Clearly, the Brown Line renovation is necessary to keep pace with the rapidly growing demand for mass transit services in Chicago.

For these reasons, since arriving in Congress I have worked closely with the City of Chicago, CTA, and U.S. Department of Transportation to ensure that the Brown Line revitalization received the support it needed to continue. I was also pleased to appear before the Transportation Appropriations Subcommittee to discuss why expanding the line is so important to ensure the safety of Chicago commuters and to improve its efficiency.

I am pleased that both Committees agree that the Brown Line rehabilitation is a critically necessary and worthwhile project. It was included in the original Transportation Equity Act for the 21st Century (TEA–21), and I am hopeful that it will be included in the upcoming bill to reauthorize TEA–21. On behalf of Chicago's riders, I am deeply grateful that the members of the Appropriations Committee included this project in the Fiscal Year 2004 Transportation-Treasury Bill passed two weeks ago by this body. Because of this support, the Ravenswood Line rehabilitation project will be able to stay on schedule, benefiting my district, and indeed the entire City of Chicago.

Mr. Speaker, I would like to personally thank all the members who supported this project crucial to Illinois' Fifth Congressional District, particularly Speaker Hastert and Congressman Lipinski for their assistance, hard work and unyielding commitment to the project. Further, I look forward to working with them in support of this project as the bill moves into conference and onto the President's desk for signature.

REMEMBERING ARIE TAYLOR

HON. MARK UDALL

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 2, 2003

Mr. UDALL of Colorado. Mr. Speaker, Colorado is poorer this week because of the death of Arie Taylor. As the Denver Post accurately stated in a recent editorial, Ms. Taylor—the first Africa-American woman to serve in our Legislature—was one of the truly great figures in Colorado politics. An outspoken champion of equality and opportunity, Ms. Taylor exemplified the tradition of collegiality that was once the hallmark of Colorado's political debates. A role model for many Coloradans, Ms. Taylor also should be an example of how we as legislators and public figures should conduct ourselves.

The complete editorial from the Denver Post follows:

ARIE TAYLOR 1927–2003, ROLE MODEL FOR ALL

Colorado politics lost one of its truly great figures with the death Saturday of Arie Taylor, the first African-American woman elected to the legislature.

Like many of Denver's African- Americans, Taylor moved to Colorado after serving in the military. The Ohio native served as a staff sergeant in the Women's Air Force from 1951 to 1955. Although she never had been stationed in Denver, she had heard favorable things about the city from an Air Force colleague and moved here in 1958. About two-thirds of her family eventually followed her from Cleveland.

Taylor, who studied at Miami University of Ohio and Case Western Reserve University, ran an accounting business for many years and also held jobs with the city.

A fervent champion of minority and women's rights, Taylor, 76, was beloved on both sides of the aisle.

A passionate warrior on behalf of causes in which she believed, Taylor was good humored and gregarious, and she genuinely enjoyed what she did.

Taylor represented House District 7 from 1972 until 1984 and won a reputation as an outspoken advocate for African-Americans, women, the poor, the elderly and other groups of people who were disadvantaged.

During the 1968 Democratic National Convention in Chicago, she castigated Southern delegations for being all white and was described by a Chicago paper as a ''large, fierce black woman.''

Taylor never shied away from that description. Indeed, when U.S. Rep. Scott McInnis arrived at the Colorado Capitol after being elected to the state legislature two decades ago, his 2-year-old son said, ''Papa, now there's a big, fat black woman'' within Taylor's earshot. The mortified McInnis proceeded to lecture the boy.

Toward the end of the day, Taylor recounted the story to the chamber, and asked the speaker of the House for an official rebuke ''against Rep. Scott McInnis,'' noting that ''his son took one look at me and called me a big, fat black woman. . . . He shouldn't lecture his son for telling the truth. The fact is, I am a big, fat black woman.''

It's worth noting that when Taylor served in the legislature, there was a collegiality among lawmakers that transcended party lines. People who fought over issues tooth and nail on the floor nonetheless were good friends in private life, a tradition that sadly seems to have been supplanted in recent years by a take-no-prisoners mentality more suited to professional wrestling than good government.

''She was involved in many controversies,'' recalled Omar Blair, the first black president of the Denver school board. ''She was a role model for a lot of young people and even a few old people like myself.''

Today, Coloradans of all colors have cause to mourn the loss of the businesswoman and lawmaker with the floppy hats and a heart bigger than the Great Plains.

INDEPENDENCE OF THE REPUBLIC OF CYPRUS

HON. SHELLEY BERKLEY

OF NEVADA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 2, 2003

Ms. BERKLEY. Mr. Speaker, I rise today to celebrate the 43rd anniversary of the Independence of the Republic of Cyprus.

After 80 years of British colonial rule, Cyprus became an independent Republic on October 1, 1960. Despite a history filled with disappointment and tragedy, the people of Cyprus remain committed to the core principles enshrined in their Constitution as well as the basic rights and freedoms for all people of Cyprus—Greek Cypriots, Turkish Cypriots and Cypriots from all ethnic and religious communities.

In recent years there have been significant advances in US-Cyprus relations and in relations between Cyprus and members of the European Union. Having signed the Accession Treaty to the European Union on April 16, 2003, Cyprus should be joining the EU in May of next year.

However, EU laws and financial benefits will apply only to the southern Greek Cypriot part of the island, which is the internationally recognized state. Unfortunately, the celebration of this historic event, as well as the anniversary of the independence of Cyprus, is clouded by the fact that 37 percent of the Republic's territory continues to be illegally occupied by Turkish military forces in violation of UN Security Council resolutions and international law.

The government of Cyprus is to be commended for its continued efforts to seek a peaceful solution to the nearly thirty-year-old Turkish occupation. I'm proud that the United States has repeatedly supported international efforts, including dozens of United Nations' resolutions, to resolve this dispute. The international community clearly is in agreement that reunification underline any future settlement. A ''two-state'' solution that would make the division permanent would not only give credence to an illegal invasion and the forced displacement of over 200,000 Greek Cypriots, it would be inconsistent with Cyprus's history and constitution.

I'm proud to state that I am a cosponsor of H. Res. 320. This legislation supports the removal of Turkish occupation troops from the Republic of Cyprus and expresses strong support for the European Parliament to do the same.

Mr. Speaker, Cyprus is to be congratulated for its 43rd anniversary and for its relentless pursuit of peace. However, until reunification is complete, the people of Cyprus will be unable to truly celebrate their independence.

CONCURRENT RECEIPT

HON. CORRINE BROWN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 2, 2003

Ms. CORRINE BROWN of Florida. Mr. Speaker Congress should fully fund concurrent receipt this session. It's the right thing to do. We owe it to the soldiers, airmen, sailors and marines, who have served as a source of great pride in our Nation, to fully fund the retirement that they have earned without penalizing them because they are also disabled. For every dollar given in disability pay, a dollar is taken out of retirement pay. That is wrong.

Time and time again, our veterans' needs are being ignored. Not only do America's veterans face this issue of concurrent receipt, but VA still needs $1.8 billion to bring the fiscal year 2004 appropriation to the level set forth by the Budget Resolution. Where are our priorities?

Right now, there are 140,000 Americans serving in Operation Iraqi Freedom. Now, more than ever, Congress needs to take action and fully fund concurrent receipt. We must promise this generation of servicemembers that they will be entitled to a full retirement for a career spent in the military. Today's soldier is tomorrow's veteran. We must show today's soldier that we will take care of him tomorrow.

Last year, the Bush Administration threatened to veto any bill that contained concurrent receipt. The Administration forced Congress to compromise and our veterans paid the cost. Conferees provided for a special compensation for 35,000 veterans who could prove that they had a combat-related disability that made them eligible for this special pay. Compensating just 35,000 veterans, out of over 500,000 veterans affected, is absolutely unacceptable! Now is the time for us to correct the national embarrassment caused by the careless treatment of America's veterans.

Any proposal that leads one to believe that it is furthering last year's authorizing of special compensation, by limiting receipt of special compensation to injuries or illnesses incurred while undertaking official military duties only, is a sham! This plan would fundamentally alter eligibility requirements for disability compensation. A proposal such as this could also affect VA health care and vocational rehabilitation because these services are based on service-connected disability status. I urge Congress to reject any proposal that amends Title 38's definition of service-connection.

The Administration will argue that there is a cost barrier to fully funding concurrent receipt. This argument shows where the Administration's priorities are misplaced. If we can come up with another $87 billion for the war in Iraq, then we can surely find the money to bring our Nation's military retirees on par with the rest of federal employees. About $21 billion of the $87 billion is to rebuild the Iraqi infrastructure. If we can come up with $21 billion to build schools and hospitals in Iraq, then we certainly can come up with the money to fully fund concurrent receipt for the men and women who fought so bravely on behalf of this great Nation.

I ask that Congress fully fund concurrent receipt this Session. I further ask that VA be given the $1.8 billion it needs so that we can show our veterans that we respect the sacrifices they made on our behalf. We need to stop talking the talk and start walking the walk.

CONGRATULATIONS, MARTIN J. ''HOOT'' MCINERNEY

HON. SANDER M. LEVIN

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 2, 2003

Mr. LEVIN. Mr. Speaker, I rise to congratulate Martin J. ''Hoot'' McInerney, who will receive the 2003 Goodfellow of the Year Award at the 14th Annual Tribute Breakfast on Friday, October 3, 2003 sponsored by the Old Newsboys' Goodfellows Fund of Detroit.

The prestigious award is presented to distinguished and noteworthy people who have contributed significantly to the community. ''Hoot'' McInerney richly deserves this honor.

Mr. McInerney is a successful car dealer and philanthropist. He is involved in a number of organizations and charities that reflect his commitment to helping people. He is a founder of the St. Joseph Mercy Men of Mercy, the

J.P. McCarthy Foundation and the Millie Schembechler Memorial Golf Benefit. He also provides leadership and support for these charities.

In addition to founding numerous charities, ''Hoot'' McInerney also generously donates to many local, national and international organizations. Among the many charities he supports are several Catholic churches and schools, the Police Athletic League Tournament, Focus: HOPE, Operation Read, Special Olympics, Children's Hospital and the Old Newsboys' Goodfellow Fund of Detroit.

The Goodfellows have given to the needy children of our community by offering emergency dental care, shoes, camperships, college scholarships and a variety of other programs to provide help through tough economic times. The program the Goodfellows are best known for is the gift packages. This year their goal is to buy Christmas gift packages for 41,500 needy Detroit area school children.

On a personal note, I know of no one who has a wider range of friendships than ''Hoot''.

Mr. Speaker, I ask my colleagues to join me in recognizing this outstanding community leader, Martin J. ''Hoot'' McInerney as he receives the 2003 Goodfellow of the Year award and to congratulate the Goodfellows as they honor its 89 year-old pledge of ''No Kiddie Without a Christmas.''

TRIBUTE TO LAFAYETTE COUNTY HEALTH DEPARTMENT

HON. IKE SKELTON

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 2, 2003

Mr. SKELTON. Mr. Speaker, let me take this means to pay tribute to the Lafayette County Health Department which is celebrating its 50th Anniversary on October 9, 2003.

The Lafayette County Health Department has proudly served the residents of Lafayette County since 1953. In that year, a sixteen member County Health Steering Committee was appointed to analyze various health problems in Lafayette County. In 1957, the steering committee recommended hiring the first county health nurse, Catherine Boedeker Winfrey. It was also in 1957 that the county started receiving public health funds. With the funds, the Lafayette County Health Department started massive polio immunization clinics and started to dispense tuberculosis medicines. They also provided dressings to cancer patients and provided classes in home nursing, first aid, babysitting, and civil defense. Hearing and vision screening were started in the county's schools. The Lafayette County Health Department became the lead agency in coordinating disaster plans for the county.

In 1963, immunization services were expanded to include the prevention of diphtheria, pertussis, tetanus, and the smallpox diseases. The Lafayette County Health Department implemented Maternal Child Health programs to educate the public about prenatal and infant health issues in 1967. Mass immunizations for rubella were available in 1970, the same year that family planning services were offered for the first time. In 1973, child health conferences were started. This program offered free well child check-ups as well as other programs to promote healthy children.

Through the 1980's and 1990's the Lafayette County Health Department continued its many services. In 1980, the department added Environmental Sanitarian services to offer inspections of food establishments and public sanitation outlets. In 2000, the department developed a Mentoring Moms program for mothers in the county.

Mr. Speaker, the Lafayette County Health Department has provided valuable public health services to the people of Lafayette County for the past 50 years. I hope that the other Members of the House will join me in thanking them for their wonderful years of service.

SOUTH SALEM HIGH SCHOOL INDUCTS FIRST ATHLETIC HALL OF FAME MEMBERS

HON. GREG WALDEN

OF OREGON

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 2, 2003

Mr. WALDEN of Oregon. Mr. Speaker, later this evening South Salem High School in Salem, Oregon will kick off the school's 50th anniversary celebration by inducting the inaugural class into its Athletic Hall of Fame. In total, 14 athletes, three coaches, one team and two community boosters will be honored in what I am sure will be a ceremony filled with many memories of the past and pride for what the South Salem ''Saxon'' community has accomplished.

Lara Tiffin ('86), Athletic Director, Guido Caldarazzo, Interim Principal, and the entire selection committee should be recognized for their enormous contributions in putting together these ceremonies.

Although my district does not include Salem, as a member of the Oregon Legislature I spent much of my time in Salem, and my long time chief of staff and his fiancée are both South Salem graduates, so I feel a part of that community in many ways.

Those of us in Congress who travel extensively throughout our districts recognize the unique role high school athletics plays in our local communities. High school athletics is a bonding experience for the young men and women competitors and a powerful social environment for the student body at large. The athletic fields and gymnasiums of our local high schools are a gathering place for parents, families and community leaders, and the team's accomplishments are often a source of pride for local newspapers and media. Perhaps above all high school athletics is a forum where coaches pass on lessons of life—not just plays from a playbook.

Mr. Speaker, I ask my colleagues to join me in congratulating South Salem High School on its 50th anniversary and congratulating the inaugural class of the South Salem Athletic Hall of Fame. They include: Gary Allen ('63), Gary Barbour ('72), Phil Brus ('72), Phil Burkland ('55), Dana Collins Amack ('56), Gary Edmonds ('68), Scott Freeburn ('67), Bob Horn ('72), Dave Johnson ('63), Daniel Moore ('58), Bruce Patterson ('56), Neil Scheidel ('55), Jack Scott ('57), and Greg Specht ('58) as athletes. Dick Ballantyne (basketball '54-'70), Lee Gustafson (football '54-'60) and Marv Heater (football '61-'72), as coaches. Pappy Aschenbrenner (Principal '54-'72) and Phil Webb ('54) as special ''Community Members.'' And the entire 1954 football team who in their first year of existence were State co-champions.

Way to go, Saxons!

RECOGNIZING THE WESTMINSTER AT LAKE RIDGE RETIREMENT COMMUNITY 10TH ANNIVERSARY CELEBRATION

HON. TOM DAVIS

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 2, 2003

Mr. TOM DAVIS of Virginia. Mr. Speaker, I would like to take this time to acknowledge Westminster at Lake Ridge Retirement Community as they celebrate ten years of community service on September 19, 2003.

The vision for Westminster started over 25 years ago when the late Myles Golbranson led a group of Presbyterians in creating a life-care community. Several years later, in 1989, Westminster was established and in January of 1993 it opened its doors as a continuing care community, making this vision a reality. Since then, Westminster has remained dedicated to its mission: to provide a continuum of housing, healthcare and related services to older adults that promote independence, dignity and personal fulfillment.

Westminster is a major Prince William County employer and provides a wealth of volunteer opportunities. The residents of Westminster have committed thousands of volunteer hours to local schools, hospitals, and civic and cultural events. For example, the Flying Fingers knit hundreds of caps and blankets each year for newborn babies at Potomac Hospital. Prince William County residents also give back to Westminster; Boy Scouts, Girl Scouts and church groups make regular visits.

Today Westminster has grown to house 400 residents, and opens its doors to countless others involved in the Rotary Club, business networking meetings, support groups, community groups, and local Chamber of Commerce groups. Westminster also holds numerous special events including countywide blood drives, health fairs, and political forums.

For ten years, Westminster, in cooperation with the adult community of River Ridge, has provided invaluable living, volunteer, political and charity opportunities to the Prince William County community. In doing so, Westminster most certainly has fulfilled its mission.

Mr. Speaker, in closing, I would like to thank Westminster at Lake Ridge Retirement Community as they celebrate their 10th anniversary. They have provided a quality retirement lifestyle for active senior citizens, and contributed greatly to the community at large. I ask that my colleagues join me in congratulating ten years of caring, volunteerism, and activism.

IN SUPPORT OF HOSPITALS

HON. JOHN SHIMKUS

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 2, 2003

Mr. SHIMKUS. Mr. Speaker, I rise today to express my support for hospitals, both in my

district and throughout the country. Rural hospitals have been especially hard hit, and without the support of two important provisions in the Medicare bill, their livelihood will be threatened.

I support keeping a full market basket for hospitals in HR 1. Without this annual reimbursement adjustment to keep up with inflation, hospitals could stand to lose 12 billion in inpatient payments. For my home state of Illinois, this could mean a loss of $92 million over three years. Providers, especially those in rural areas like my district, depend on this money to stay open in traditionally underserved communities.

Restoring the Indirect Medical Education payments is another one of my priorities for the Medicare bill. IME payments go to teaching hospitals, whose role is crucial to the survival of our health care system. These payments acknowledge teaching hospitals' higher costs due to the specialized treatment provided to sicker patients. Not only do they provide unique care, teaching hospitals are also producing our next generation of caregivers. Unfortunately, these hospitals will lose more than 4 billion dollars over the next four years because of a cut last year. The reinstatement of the IME to 6.5% would enable these hospitals to continue their mission.

These important provisions will enhance the quality of care and will make a major difference for Medicare beneficiaries all over the country.

I applaud my colleagues on the Conference Committee for the hard work they have done and continue to do to reach agreements for the good of our constituents.

A SPECIAL TRIBUTE TO ASHLAND UNIVERSITY ON THE 125TH ANNIVERSARY OF ITS CHARTER

HON. PAUL E. GILLMOR

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 2, 2003

Mr. GILLMOR. Mr. Speaker, it is my distinct privilege to stand before my colleagues in the House to pay tribute to an outstanding institution of higher education. Ashland University is marking a ''Year of Celebration'' on the occasion of the 125th Anniversary of the school's chartering in Ashland, Ohio.

Ashland, Ohio's original settlers trace their roots back to a small group of ''brothers'' who emigrated in 1708 from Schwarzenau, Germany in search of religious and intellectual freedom.

Like Ashland's first citizens, the history of this vibrant institution reads as a truly American story. It all began in the summer of 1877 at a town meeting. The German Baptist Brethren Church proposed the establishment of an institution of higher education if the community could raise ten thousand dollars. The resulting fundraising campaign proved successful, and on February 20, 1878, Ashland College was chartered.

Classes started on September 17, 1879 with eight faculty members and between fifty-five and seventy-five students. From this modest beginning, Ashland's enrollment has grown to five thousand six hundred graduate and undergraduate students.

Ashland College became Ashland University in 1989. The University is and remains a liberal arts institution in the finest tradition of higher education. As such, it is a teaching university, empowering its students not only with current knowledge but also with the power of deliberate reasoning to face the challenges and new horizons known only to the future.

I would note that the University's Ashbrook Center for Public Policy is a nationally recognized academic forum for the study, research and discussion of the principles and practices of American constitutional government and politics. The Ashbrook Center's programs are directed to the scholarly defense of individual liberty, limited constitutional government and civic morality, which together constitute our democratic way of life.

Mr. Speaker, truly great institutions of higher education not only educate their students, but also inspire them toward a lifetime of service as well. Indeed, Ashland University's 125 years of teaching provides our state with a rich legacy of intellectual, spiritual, social, cultural and physical development.

I ask my colleagues to join me in recognizing Ashland University's ''Year of Celebration,'' and to extend to the entire Ashland University family our very best wishes.

HONORING RAYMOND G. BOLAND

HON. TAMMY BALDWIN

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 2, 2003

Ms. BALDWIN. Mr. Speaker, I rise today to honor Raymond G. Boland who served as Secretary of the Wisconsin Department of Veterans Affairs for eleven years.

Throughout his tenure, Secretary Boland initiated a number of programs aimed at bettering the lives of Wisconsin veterans. Although it is impossible to quantify all Secretary Boland has accomplished, I would like to highlight three programs that demonstrate his unyielding dedication to veterans.

The 1994 establishment of the Veterans Assistance Program made great strides towards ending homelessness among veterans. In working to better the lives of veterans and increase job accessibility, Secretary Boland implemented the Troops to Teachers Program in 1995. This important program has allowed veterans with baccalaureate degrees to obtain teaching certification at an accelerated pace. Finally, Secretary Boland's dedication to veterans was demonstrated by his 1998 creation of the Wisconsin Women's Veterans program, which continues to focus on the specific needs of women veterans.

Secretary Boland's outstanding work has not gone unnoticed. In 1997, Secretary Boland received the American Veterans Silver Helmet Award as the Civil Servant of the Year. The following year, he was awarded the Department of the Army Distinguished Civilian Service Medal. Most recently, in recognition of his commitment to ending veteran homelessness, Secretary Boland was presented with the second annual Jerald Washington Memorial Founders' Award by the National Coalition for Homeless Veterans.

I am proud today to stand with the Wisconsin Department of Veterans Affairs and veterans of Wisconsin in recognizing Secretary Raymond G. Boland for his outstanding work and dedication to better the lives of veterans.

IN HONOR OF THE 10TH ANNIVERSARY OF THE DALLAS STARS

HON. PETE SESSIONS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 2, 2003

Mr. SESSIONS. Mr. Speaker, I rise today to pay tribute to the 10th Anniversary of the Dallas Stars first regular season NHL hockey game in Dallas. The Dallas Stars had a successful start to their career in Big D, as the Stars defeated the Detroit Red Wings 6–4 at Reunion Arena on October 5, 1993.

In the ten years since the Stars moved to Dallas from their previous home in Minnesota, The Stars have advanced to the playoffs eight years, with playoff berths in 1994, 1995, 1997, 1998, 1999, 2000, 2001, and 2003. The Stars won Lord Stanley's Cup in 1999 in a six-game series against the Buffalo Sabres. The championship Stars team was captained by defenseman Derian Hatcher, the very first American born Captain of a Stanley Cup championship team in the history of the NHL. The Stars then repeated as Western Conference Champions the following year.

In addition to the exceptional record of the Dallas Stars over the past ten years, the moving of the Stars to Dallas has created a huge expansion of hockey throughout our schools and communities in North Texas. Before the Stars came to Dallas, it was almost unheard of for schools to have interscholastic hockey teams. The North Texas community has not only fully embraced the Stars, but has taken a heart to the sport of hockey. Without the Stars, none of this expansion of hockey throughout North Texas would have occurred in such a rapid fashion.

Under the leadership of head coach Dave Tippett, general manager Doug Armstrong, and owner Thomas O. Hicks, the Dallas Stars are poised to start another great season. I wish the Dallas Stars all the best for their season opener against the Mighty Ducks on October 8th at the American Airlines Center in Dallas, and for the rest of the upcoming season. Congratulations to the Stars franchise on their 10th year anniversary of their move to the Lone Star State of Texas.

A PRIVATE SECTOR EFFORT TO IMPROVE CIVIC EDUCATION

HON. PHILIP M. CRANE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 2, 2003

Mr. CRANE. Mr. Speaker, I would like to acknowledge the award-winning educational videotapes given free to our nation's high schools, community colleges, and others produced by the Committee for Citizen Awareness (CCA). In particular, I would like to focus on those Americans across the country who are working with the CCA to enable these civic videotapes to be seen free by their fellow citizens in their locale.

All Americans can agree on the need for a well-informed citizenry. The involvement of our people in our republic is the guarantee of our freedom. Surveys have shown that the information contained in these videotapes help our citizens understand and exercise their civic responsibility.

The secret to America's greatness lies in its citizens, as individuals and, when combined, in organizations. A good example of this is the local organizations cooperating with the CCA. Such support for their community's educational institutions and their citizens' civic understanding makes America a better country.

Those of us in Washington, D.C. who do all we can to make sure that our republic functions properly are particularly grateful to those who contribute from the private sector as is the case with the CCA.

John J. Bratsakis, Jr., President of Community Trust Credit Union.

Richard M. Wardrop, Jr., Chairman and Chief Executive Officer of A K Steel Corporation.

Valdimir E. Ostoich, Co-Founder and Vice President of Abaxis, Inc.

Gary Jester, President of Advancial Federal Credit Union.

Karen Lambert, Chief Executive of Advocate Good Shepherd Hospital.

Marilyn Carp, President of AEGON.

Helen Jimenez Dichoso, President and CEO of Allied Health Services.

Kenneth S. Leonard, President and CEO of America's Credit Union, A Federal Credit Union.

Mr. Tippets, President and CEO of American Airlines Federal Credit Union.

Douglas W. Kohrs, President and CEO of American Medical Systems.

John R. Gibson, Chairman, President, and CEO of American Pacific Corporation.

Dorinda M. Simpson, President and CEO of American Partners Federal Credit Union.

Bernaldo Dancel, President and CEO of Amerix Corporation.

Brenda Berry, Dean of Student Services of Andover College.

Larry C. Glasscock, President and CEO and Gray Somers, Vice-President and General Manager of Anthem Blue Cross & Blue Shield.

Thomas F. Gordon, J.D., LL.M, President of Avila College.

Dan Smith, President and CEO of Bay Area Hospital.

Lois B. DeFleur, President of Binghamton University.

Ronald A. Battista, President of Blue Cross & Blue Shield of Rhode Island.

Michael Cascone, Jr., Chairman, President, and CEO of Blue Cross & Blue Shield of Florida.

David Joyner, Senior Vice President, Network Manager of Blue Shield of California.

Craig M. Ames, President and COO of BryanLGH Medical Center.

Dr. Steffen H. Rogers, President of Bucknell University.

Dr. Marilyn C. Beck, President of Calhoun Community College.

David A. Woodle, Chairman and CEO of C–COR.

Gary Oppedahl, President and CEO of Cell Robotics International, Inc.

Trudy Prince, President and CEO of Central Florida Healthcare Federal Credit Union.

Robert Young, President and CEO of Central Vermont Public Service Corporation.

Ronald L. Turner, Chairman, President, and CEO of Ceridian Corporation.

Martha W. Miller, President and CEO of Choice Community Credit Union.

Dr. Thomas W. Cole, President Emeritus of Clark Atlanta University.

Melinda Estes, M.D., CEO of Cleveland Clinic Florida.

Dr. Randal R. Wisbey, President of Columbia Union College.

J. Alan Pughes, President and CEO of Community One Federal Credit Union.

David E. Addison, President and CEO of Constitution State Corporate Credit Union.

Thomas A Dattilo, Chairman, President, and CEO of Cooper Tire and Rubber Company.

Jim Sinegal, President and CEO of Costco Wholesale.

Father O'Connor, President of DeSales University.

David Nelms, President and COO of Discover Financial Services, Inc.

Victor A. Roque, President of Duquesne Light.

Dr. Stephen M. Jordan, President of Eastern Washington University.

Daniel A. Carp, Chairman and Chief Executive Officer of Eastman Kodak Co.

Rebecca Rae Stilling, President of EDFUND.

Barrett O'Connor, President of EFS Bank.

Dr. Stafford L. Thompson, President of Enterprise State Junior College.

Joseph E. O'Dell, CEO of First Commonwealth Financial Corp.

Gary Burkart, Director of Public Affairs of Flagstar Bank.

Garry Jones, President of Full Sail Real World Education.

Dr. John A. Davitt, Superintendent and President of Glendale Community College.

Aaron Dobrinsky, Chairman of the Board of Go America Communications.

Bob Ambrose, Manager of Government Affairs of Great River Energy.

Stephen W. Pogemiller, President and CEO of Heritage Community Credit Union.

Patricia J. Ellis, Chairman of the Board of Directors of HEW Federal Credit Union.

Mike Laign, President and CEO of Holy Redeemer Health System.

Dr. John S. Erwin, President of Illinois Central College.

Larry F. Altenbaumer, President of Illinois Power.

Carmella Grahn, Executive Vice President of IndyMac Bank.

Dr. Glen R. Roquemore, President of Irvine Valley College.

Craig M. Bradley, President and CEO of Kane County Teachers Credit Union.

Frank J. Perez, Chief Executive Officer, Kettering Medical Center Network and Kettering Adventist HealthCare of Kettering Medical Center Network.

Dr. Norm Nielsen, President of Kirkwood Community College.

Richard Gifford, CEO of LAFCU.

Susan Ramsey Wilson, Director of Marketing and Public Relations of Lake Cumberland Regional Hospital.

Steve Newberry, President and COO of Lam Research Corporation.

Don Logan, President and General Manager of the Las Vegas 51s.

Bob Armstrong, Vice President of Clinical Services of Lima Memorial Health System.

Susan J. Ganz, CEO of Lion Brothers Company Inc.

Dr. Algeania W. Freeman, President of Livingstone College.

Dr. Craig Dean Willis, President of Lock Haven University.

Charlie Etheredge, Principal of Locklin Technical Center.

Stephen Endaya, President and CEO of Los Angeles Police Federal Credit Union.

Dr. Tyree Wieder, President of Los Angeles Valley College.

Dr. John A. Rock, Chancellor of LSU Health Sciences Center in New Orleans.

J. Dwane Baumgardner, Vice Chairman of Magna Donnelly.

Dr. Mary Cantrell, Director of Manatee Technical Institute.

Keith Campbell, Chairman of the Board of Mannington Mills, Inc.

Michael Minkos, General Manager of Mass. Municipal Wholesale Electric Company.

Martin A. White, Chairman and CEO of MDU Resources Group, Inc.

Lawrence J. Burns, VP for Institutional Advancement of Medical College of Ohio.

Alan Kaufrnan, Treasurer and CEO of Melrose Credit Union.

John E. Brubaker, President of Members Heritage Federal Credit Union.

David P. Benn, CEO of Memorial Hospitals Association.

Jim Roberts, Vice President, Public Affairs of Minnesota Power (aka ALLETE).

Dr. Drew Bogner, President of Molloy College.

J. Stewart Fuller, CEO of Monterey Credit Union.

Louis W. Sullivan, M.D., President Emeritus and Nigel Harris, M.D., Dean and Senior Vice President of Academic Affairs of Morehouse School of Medicine.

Tim Hayward, Administrator and CEO of Nacogdoches Memorial Hospital.

Michael Leggiero, President and CEO of North Hudson Community Action Corporation.

Dr. Robert C. Ernst, President of Northcentral Technical College.

Ray Ferrero, Jr., J.D., President of Nova Southeastern University.

Bruce M. Elegant, President and CEO of Oak Park Hospital.

Dr. Richard Thompson, Chancellor of Oakland Community College.

Gerald D. Fitzgerald, President and CEO of Oakwood Healthcare Inc.

Dan Evans, Dean of Ohio University Southern Campus.

Gary Wehrle, President, and CEO of Pacific Crest Bank.

Bruce Markowitz, CEO and President of Palisades Medical Center.

James McNulty, Chairman and Chief Executive Officer of Parsons Corporation.

Chester A. Wynn, President and CEO of Passavant Area Hospital.

Dr. Ann M. Williams, Campus Executive Officer, Lehigh Campus and Asst. Dean for Academic Affairs, Burns-Lehigh Valley College of Penn State Lehigh Valley Campus.

Michael P. Falcone, CEO of Pioneer Companies.

Jeff Sterba, Chairman, President and CEO of PNM Resources, Inc.

Richard E. Yochum, President and CEO of Pomona Valley Hospital Medical Center.

Paul Bonell, President and CEO of Premier Community Credit Union.

Earnest Gibson III, Administrator and CEO of Riverside General Hospital.

Jeffrey Philipps, President and CEO of Rosauers Supermarkets, Inc.

Sam W. Downing, President and Chief Executive Officer of Salinas Valley Memorial Healthcare System.

Christopher W. Evenson, President of Salt Lake City Credit Union.

Frank T. Beirne, CEO of Samaritan Hospital.

Jeffrey H. Farver, President and CEO of San Antonio Federal Credit Union.

John J. Smolinksy, President and CEO of Saugus Federal Credit Union.

Dr. Richard L. Behrendt, President of Sauk Valley Community College.

Nancy Layton, Marketing Manager of Service Credit Union.

Kelby Krabbenhoft, President and CEO of Sioux Valley Hospitals and Health System.

Vincent J. McCorkle, President and CEO of Sisters of Providence Health System.

Louis Giancola, President of South County Hospital.

Ingo Angermeier, President and CEO of Spartanburg Regional Healthcare System.

Ernest G. Clark, Executive Director of Spencerian College.

Dr. Andrew A. Lasser, Dr. P.H., President and CEO of St. Joseph Hospital.

Dr. Charles L. Cotrell, President of St. Mary's University—San Antonio, Texas.

John Maher, CEO of St. Vincent's.
Dr. Vic Morgan, President of Sul Ross State University.

PERSONAL EXPLANATION

HON. JIM DeMINT

OF SOUTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 2, 2003

Mr. DEMINT. Mr. Speaker, I was absent during rollcall votes 524, 525, and 526. Had I been present, I would have voted ''nay'' on rollcall votes 524 and 525. I would have voted ''yea'' on rollcall vote 526.

IN HONOR OF REVEREND JOSEPH P. SHEA

HON. ADAM B. SCHIFF

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 2, 2003

Mr. SCHIFF. Mr. Speaker, I rise today to congratulate Father Joseph Shea, Pastor of Holy Family Catholic Church, for receiving the Spirit of Giving Award in recognition of his selfless dedication to the Glendale Community.

Father Joseph Shea is a graduate of St. John's College Seminary where he received a Bachelor of Arts in Philosophy. He is also a graduate of the Continuing Formation in Ministry Program at the University of Notre Dame. He was ordained into the priesthood in 1978. Prior to joining the Holy Family Parish, Father Shea served as associate pastor of St. Ignatius of Loyola Church in Highland Park until 1982. He was subsequently transferred to St. John Vianney Church in Hacienda Heights where he was also associate pastor. In 1989, Cardinal Roger Mahoney appointed Father Shea as the Director of the Office of Vocations. He worked in this office until 1995, promoting and encouraging vocations to the priesthood and religious life throughout the Archdiocese of Los Angeles.

Father Shea has been the Pastor of Holy Family Catholic Community since July of 1996. Under Father Shea's leadership, the parish engineered a Strategic Plan 2000 to build a strong vision for the new millennium. The plan's mission is for all registered parishioners to dedicate themselves to the support of the spiritual, educational, cultural, youth, and community outreach programs through active participation.

Father Shea is highly dedicated to civic affairs. He serves on the Verdugo Mental Health Board of Glendale, the Board of Directors for Glendale's Community Center, Catholic Charities Loaves and Fishes, and the Institute for Urban Research and Development. He is an active member of the Glendale Human Relations Coalition, Kiwanis Club of Glendale, and the Recreation Facilities and Open Space Committee for the city. He is a newly appointed member to the Advisory Board of Glendale's Adventist Medical Center. Additionally, he is a member of the Board of Directors for the Cardinal McIntyre Fund for Charity, serves on the Archdiocese of Los Angeles Department of School Board, and Dean of Deanery 6 of the L.A. Archdiocese. Father Shea is a remarkable man with an unwavering passion for community service and limitless energy.

I ask all Members of Congress to join me today in commending Father Joseph P. Shea for his commitment to service throughout the community and for his incomparable Spirit of Giving.

TRIBUTE TO 100TH ANNIVERSARY OF GEORGETOWN UNIVERSITY SCHOOL OF NURSING & HEALTH STUDIES

HON. ELEANOR HOLMES NORTON

OF THE DISTRICT OF COLUMBIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 2, 2003

Ms. NORTON. Mr. Speaker, I am very pleased to recognize one of the nation's premier schools of nursing and health studies, here in the District of Columbia, the Georgetown University School of Nursing & Health Studies, as it celebrates its centennial anniversary.

In December 1903, a committee at Georgetown Hospital formally created the Georgetown University Training School for Nurses. One hundred years later, now called the School of Nursing & Health Studies, the school is celebrating its long-standing traditions as well as its continued status as a leader in health care education.

The School of Nursing & Health Studies, located in the newly renovated St. Mary's Hall, has been at the forefront of the health care field, preparing future leaders to respond to the growing complexity of health care delivery at all levels. Graduates pursue various health professions within nursing, medicine, law, health policy, health management, and public health, among many other careers. Students have an opportunity to study and intern at health care facilities and agencies throughout Washington, D.C., including Georgetown University Hospital, the National Institutes of Health, and the World Health Organization.

Both the Nursing and Health Studies majors focus on cura personalis—the care and development of the whole person—by educating students for a meaningful life, challenging them intensively, but also supporting them in their learning. The School embraces the Jesuit inspired principles shared by the entire University community, which emphasize the pursuit of knowledge with a responsibility to contribute to the common good.

Mr. Speaker, one hundred years have seen remarkable changes and advances in health care, yet the School of Nursing & Health Studies continues its core mission of developing exceptionally qualified health professionals who can recognize and respond to the full human experience encountered in the health field. I hope you will join me in congratulating the School of Nursing & Health Studies and Dean Bette Keltner on this auspicious occasion.

TRIBUTE TO ALTHEA GIBSON

HON. EDDIE BERNICE JOHNSON

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 2, 2003

Ms. EDDIE BERNICE JOHNSON. Mr. Speaker, it is with sadness that I pay tribute to the memory of a remarkable woman who was the first black player to win Wimbledon and a pre-eminent figure in women's tennis, Althea Gibson. I would like to extend my greatest sympathy to the Gibson family by taking a moment to reflect on the rich life of this fine person.

The eldest of five children, Gibson was born in South Carolina but raised in the Harlem section of New York City. While her future opponents were developing their tennis on the courts of country clubs she was getting into trouble on West 143rd which was a play area blocked off to traffic. She learned paddle ball, a sort of poor-girl tennis with solid wooden rackets.

She was a self-described ''born athlete'' who broke racial barriers not only in tennis but in the Ladies Professional Golf Association. She even toured with the Harlem Globetrotters basketball team after retiring from tennis in the late 1950s.

On Aug. 28, 1950, three years after Jackie Robinson had broken the color barrier in major league baseball, Ms. Gibson became the first black player to compete in the precursor to the U.S. Open.

Ms. Gibson dominated women's tennis from 1956–58, winning 11 Grand Slam titles: five in singles, five in doubles and one in mixed doubles.

She captured the Wimbledon and U.S. championships in 1957 and 1958, and also won the French Open, and three Wimbledon doubles titles (1956–58).

After the circuit, she launched herself into the business of supporting herself. She toured with the Harlem Globetrotters. She was a proud member of a community service organization, Alpha Kappa Alpha Sorority, Inc.

Mr. Speaker, Ms. Gibson was known as a proud woman who for years declined to take money from friends who tried to help when she was living on Medicare and Social Security payments. Her front door bore a simple plaque: ''Bless this home and all who enter.''

I ask my colleagues to join me in remembering the honorable and gracious memory of Althea Gibson. I am certain that her legacy will endure for years to come.

RECOGNIZING MR. JOSEPH M. FERRAINA

HON. FRANK PALLONE, JR.

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 2, 2003

Mr. PALLONE. Mr. Speaker, I rise today to acknowledge the accomplishments of Mr. Joseph M. Ferraina, a man of true character and compassion. Mr. Ferraina is being honored as ''Man of the Year'' by the Long Branch Elks in New Jersey for the many contributions he has made to his community. I can think of no one more deserving to receive this award.

Mr. Ferraina's accomplishments are extensive. Through his ''can do'' attitude and determination he has overcome many obstacles in life. At age thirteen, Mr. Ferraina emigrated from Argentina to America. At the time, he did not know any English and found himself in third grade classes when he was the age of a ninth grader. Despite a lack of faith and encouragement from school counselors, Mr. Ferraina persevered, ultimately earning his

Bachelors of Arts Degree from Jersey City State College and a Masters Degree from Monmouth University. He has also continued to do graduate work at both Seton Hall University and Rider College.

Mr. Ferraina has had a long and brilliant career in education where it began as a Spanish teacher in the Long Branch Junior High School in 1973. By 1978, he became Assistant Principle only to be become Principle of the Middle School four years later. In 1992 Mr. Ferraina was chosen as Assistant Superintendent and Superintendent of Schools in 1994. In 2000, he was given the honor of New Jersey Superintendent of the Year for his numerous innovative programs and practices.

Mr. Ferraina is an active member in the Long Branch Rotary Club where he has served as president. He is on the Monmouth Medical Center Board of Trustees and the Ronald McDonald House Board of Directors. In addition, Mr. Ferraina is member of The Drug and Alcohol Abuse Council, the first aid squad, the Board of Directors of the Greater Long Branch Chamber of Commerce, and the Long Branch Free Public Library Board of Trustees. This is just a sampling of Mr. Ferraina's community based affiliations, and indicative of his commitment to serving the community.

Mr. Ferraina has been recognized on many occasions for his noble endeavors. In 1998 and 1999, he received a proclamation from New Jersey Governor Christine Todd Whitman for offering BEST PRACTICES, which are outstanding and innovative school programs. Active in a variety of civic and educational organizations, he was named Principal of the Year by the Monmouth County Elementary and Middle School Administrators Association in 1991. Among many other awards and honors, Mr. Ferraina has received a Resolution of Appreciation from the City of Long Branch, the Community Involvement Award from the Knights of Pythias, the Community Service Commendation from the Superior Court of New Jersey, and the Humanitarian Award from the NAACP of Long Branch.

Mr. Speaker, it is apparent that Mr. Ferraina has and continues to be an asset to his community for his tireless devotion to educating our youth. Accordingly, I ask that my colleagues rise up and join me in honoring this most respectable man, Mr. Joseph M. Ferraina.

TAX ON DISABLED VETERANS

HON. JAMES R. LANGEVIN

OF RHODE ISLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 2, 2003

Mr. LANGEVIN. Mr. Speaker, I rise today to join my colleagues in condemning the gross injustice being perpetrated upon the greatest of American heroes, our disabled veterans.

Due to an antiquated law, more than 700,000 disabled veterans had been unable to receive both their compensation from the Department of Veterans Affairs (VA) and their military retirement pay. We ended this disgraceful treatment for some of our disabled veterans with the passage of last year's Defense Authorization Act. Now, veterans with disability ratings of 60 percent and higher are eligible to receive a special compensation that offsets the egregious tax on disabled veterans. But thousands more are still waiting for relief.

Veterans are the only group of federal retirees who face such a punishing offset, levied against them simply for being disabled. This penalty is simply wrong. The retirees that it affects have already sacrificed too much in service to our country to have to forfeit their VA compensation.

H.R. 303, of which I am a proud cosponsor, is just the first step. This bipartisan legislation would allow retired members of the Armed Services with service-connected disabilities to collect the full veterans' disability compensation to which they are entitled. It guarantees that disabled retirees receive a fair benefit package, and its overwhelming support, has helped bring the issue of concurrent receipt to the forefront of our legislative agenda. Yet even with 370 cosponsors, the Republican leadership refuses to bring the bill to the Floor. We have launched a discharge petition to force H.R. 303 to be considered, and still they block us. There are 203 signatures on the petition, but the Republican leadership has warned its members not to sign on, so it is going to be a fight for the last 15 signatures. I say to you that this is a fight we must win.

Now, there is even talk of redefining what ''disabled veteran'' means. How dare anyone attempt to cheat veterans out of the benefits we promised and they rightly earned? It is unconscionable that Members of our own body are sabotaging attempts to correct an inequity. We must resist any move to restrict veterans' access to healthcare and compensation.

It is reprehensible that a Civil War era law is still robbing our veterans of fair compensation that is rightly theirs, and I call upon my colleagues to fight this embarrassing mistake and restore to our heroes just a small amount of what we owe them.

PERSECUTION, FORCED LABOR, ORGAN HARVESTING AND CAPITAL PUNISHMENT IN CHINA

HON. FRANK R. WOLF

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 2, 2003

Mr. WOLF. Mr. Speaker, I continue today to bring to our colleagues attention human rights abuses in China provided here by the Laogai Research Foundation. They tell a desperately tragic story of a peoples thrown into harsh and brutal labor camps—without trial—who are then forced to do dangerous work, are regularly beaten, tortured, deprived of food and sleep, or summarily executed with their organs removed without the consent of the victims or their family. Many of the Chinese government's victims are religious men and women who, simply by wishing to follow their conscience, are considered a danger to the state.

''IN THEIR OWN WORDS'' STATEMENTS ON FORCED LABOR, ORGAN HARVESTING AND CAPITAL PUNISHMENT IN CHINA PROVIDED BY LAOGAI RESEARCH FOUNDATION

The Laogai is an integral part of China's economy, serving as a principal source of cheap labor and organs. Its victims suffer from torture, arbitrary detainment, forced labor, organ harvesting, and execution.

Human rights groups have documented over 1,000 Laogai camps in China and estimate that the Laogai has a population of 4 to 6 million prisoners.

The Chinese Communist Party seeks to single out and eliminate all who ''endanger state security.'' Thousands of political/religious prisoners are currently being imprisoned or otherwise detained, including China Democracy Party founders Wang Youcai and Qin Yongmin, Internet activists Yang Zili and Huang Qi, Tiananmen Square demonstrators, protestants, Catholics, Tibetan nuns and monks, journalists, academics, and Falun Gong practitioners.

There is little to deter those who inflict torture upon inmates of the Laogai. Confessions extracted through torture are routinely used to convict individuals in court. Forms of torture that are commonly documented in Chinese prisons include: use of electric batons, beating with fists and clubs, the use of handcuffs and leg irons in ways that cause intense pain, suspension by the arms, deprivation of food or sleep and solitary confinement.

According to conservative estimates, over 200,000 people are serving sentences in reeducation through labor (Laojiao) camps with no trial or sentencing procedure of any kind—all that is necessary is the directive of any official in China's Public Security Bureau.

All prisoners are forced to meet production quotas that are enforced through withholding of food rations. Many camps force prisoners to work 16 to 18 hours a day. Prisoners often labor in highly unsafe conditions, including work in mines and with toxic chemicals. Prisoners do not receive payment for their labor or any profit generated from the products they produce.

Forced labor is an integral part of China's economy, producing approximately $800 million dollars in sales. Despite specific agreements that ban forced labor goods these goods continue to flow out of China. Cooperation by Chinese authorities has been characterized by the State Department as ''sporadic, at best.'' Most requests to hold an investigation are either ignored or denied.

The Laogai's victims also suffer organ harvesting, and execution.

Despite the claims that prisoners give consent for the use of their organs for transplant, evidence suggests that an overwhelming majority of prisoners, or their families, never gave consent before execution.

Prisoners are shot in the back to preserve their corneas and shot in the head in order to preserve the heart.

Recently, China began implementing the use of mobile execution vans, similar to vans used in Nazi Germany prior to its use of concentration camps. The use of mobile execution vans will allow doctors to remove organs in a timely manner and a clean environment.

According to Amnesty International, China executes more prisoners every year than the rest of the world combined. In 2002, the State Department recorded over 4,000 executions after summary trials. Some scholars estimate that as many as 10,000–20,000 are executed yearly. According to the Chinese criminal law code there are over 60 capital offenses. Prisoners are executed for crimes ranging from murder to theft to arson to drug trafficking.

Prisoners are occasionally executed in front of crowds in fields or stadiums.

RECOGNIZING THE WORK OF THE CARON FOUNDATION

HON. JOSEPH R. PITTS

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 2, 2003

Mr. PITTS. Mr. Speaker, the Caron Foundation is a not-for-profit organization whose mission is to provide an enlightened and caring treatment community in which all those affected by alcoholism or other drug addiction may begin a new life.

The great work of this organization began when Richard J. Caron, an industrialist and recovering alcoholic from Reading, PA, and his wife Catherine, spent hours in their home ''chit chatting'' with people who came to them for help.

Dick published a newsletter, which he called Chit Chat, to reach out to others who needed support and an encouraging word. In 1957, after years of opening their home to those needing a guiding hand in recovery, they established a halfway house. Before long, this too proved to be inadequate to accommodate the many individuals who sought their counsel.

In 1959, the Carons purchased a historic resort hotel on South Mountain in Wernersville, PA, and opened Chit Chat Farms—a facility that has gained an international reputation for excellence as one of the first and foremost chemical dependency treatment centers in the United States.

Now in its fifth decade of providing quality services, Caron offers a full spectrum of gender-specific chemical dependency treatment programs to meet the needs of everyone—from adolescents to seniors. Today, the Caron Foundation, rooted in the ''Chit Chat'' tradition, stands as a beacon of hope to individuals and families whose lives have become unmanageable because of chemical dependency.

The Caron Foundation, one of the Nation's oldest and largest not-for-profit chemical dependency treatment providers, is located in a serene mountain setting in Berks County, PA. The Foundation is nearing completion of a 4-year $16 million master campus improvement and renovation project. This facility will enable Caron Foundation to continue to serve thousands in need of help.

On Sunday, October 19, 2003, the Foundation will host an official campus dedication ceremony, appropriately themed, A Celebration of Growth and Change. John Schwarzlose, President and CEO of the Betty Ford Center will be the keynote speaker; among the honored guests will be the well-known philanthropist, Mrs. Leonore Annenberg.

This celebration will allow Caron's Board of Directors and leaders to recognize the many donors whose generosity and support made this project possible.

It will also provide Caron with an opportunity to showcase the newly constructed buildings, as well as the beautifully restored historic buildings that have been part of Caron's history for more than 45 years.

It's time that we pay proper tribute to the people and organizations that make such a profound difference in the lives of people in desperate need to hope. The Caron Foundation has given so many the opportunities to make a new choice and start a new life.

HISPANIC HERITAGE MONTH

HON. ADAM B. SCHIFF

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 2, 2003

Mr. SCHIFF. Mr. Speaker, I rise today in honor of Hispanic Heritage Month, commemorating the extraordinary contributions that Hispanic-Americans have made to our country throughout history. During this one-month period of celebration and tribute, we honor the culture and achievements of the Hispanic community, all of which have played a historic role in our Nation.

I am proud, honored and privileged to represent a region in Congress that is extraordinarily diverse and home to many citizens who are of Hispanic heritage. To commemorate Hispanic Heritage Month, I would like to highlight the remarkable accomplishments of an organization in my district committed to serving its neighbors.

Founded in 1946, La Casa de San Gabriel Community Center is a family community ministry serving 5,800 clients per year, ranging from infants to the elderly. La Casa is unique in that it is a centrally located facility addressing the multicultural needs and interests of its diverse community—primarily Hispanic and Native American working poor—in their efforts to overcome the barriers of underemployment, poverty, inadequate housing, limited education, and lack of medical care. These efforts on behalf of the community have been extraordinary.

Today, with an estimated Hispanic population of over 38 million in our country, we must also recognize that our efforts to commemorate Hispanic culture should not be limited merely to a one-month period.

In addition to recognizing great accomplishments, we must also demonstrate our commitment to ensuring equality of opportunity for all Americans. Specifically, we must ensure that educational resources are readily available to all Americans. Since the future of our children is perhaps one of our most vital priorities, educational programs such as Head Start need to be supported and funded, rather than cut from our minority communities. We must also support economic empowerment and provide economic security for all Americans and work to ensure access to health care for the uninsured and underserved.

Cesar Chavez once said, ''We need to help students and parents cherish and preserve the ethnic and cultural diversity that nourishes and strengthens this community and this Nation.'' As we reflect on Mr. Chavez's words and on this month of festivities and celebrations to honor Hispanic-Americans, let us remain steadfast in our commitment to civil rights for all Americans and promote increased representation in Government from all facets of our diverse country.

TRIBUTE TO WAYNE PUBLIC LIBRARY

HON. THADDEUS G. McCOTTER

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 2, 2003

Mr. McCOTTER. Mr. Speaker, I rise today in tribute to the Wayne Public Library, which this year celebrates its 80th anniversary of service to the people of Wayne, Michigan.

Founded in June, 1923, and tucked within the Morrison and John Shoe Store on Michigan Avenue, the library was run by Ms. Emma John, the shoe store owner's daughter, who lent out the initial stock of 500 volumes to some 886 registered patrons in-between waiting on shoe customers.

My, how times—and shoe styles—have changed.

Today, the Wayne Public Library operates in a state-of-the-art facility of 24,000 square feet, which houses both Adults' and Children's reading rooms; meeting rooms; reference services; and numerous special events and classes for the entire community.

Mr. Speaker, I ask my colleagues to join me in congratulating and thanking the Wayne Public Library for their 80 years of outstanding service to the people of Wayne, Michigan.

MENTAL HEALTH AWARENESS WEEK 2003

HON. DANNY K. DAVIS

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 2, 2003

Mr. DAVIS of Illinois. Mr. Speaker, I rise today in honor of Mental Health Awareness Week. With the Census Bureau reporting yesterday that the number of people without health insurance shot up last year by 2.4 million, the largest increase in a decade, raising the total to 43.6 million, showing there is no hiding that our Nation is facing a health crisis. The reason behind this remarkable increase has been blamed on soaring health costs and many workers losing coverage provided by their employers. Although it is usually a misconception that those who are uninsured are also unemployed, the number of full-time workers without health insurance rose by 897,000 last year, to 19.9 million. Among people living in poverty, 49 percent of those worked full-time were uninsured. Beside a lack of information and education about mental illness, being uninsured plays a significant role on whether an individual reaches out for help or even receives treatment.

In our Nation, one percent of the population has been diagnosed with schizophrenia, one percent has been diagnosed with manic depression and between 5–10 percent of Americans will experience at least one episode of major depression. This gives us a base number of about 14–24 million individuals. If you add in the millions who suffer with panic attacks or Obsessive-Compulsive Disorder, and include the more than four million who suffer with dementing illnesses, such as Alzheimer's Disease. Then if we include substance abuse and other addictive disorders, we reach a number that includes a quarter to a third of the American public who suffers with some form

of mental illness. During any one year period, up to 50 million Americans, more than 22 percent, will suffer from a clearly diagnosable mental disorder. These numbers demonstrate the need for mental health care and coverage. Yet, instead, services are disappearing and many, specifically minorities, are backing away from the services that still remain.

Minorities in America face severe economic, cultural, linguistic and physical barriers for treatment of mental illness. According to a report from the U.S. Public Health Service, these difficulties prevent thousands from being properly treated. The study explains that minorities are no more likely than whites to suffer from mental illnesses. However factors often keep African Americans, Hispanics, American Indians, Native Hawaiians, and Asian Americans from getting the help they need and when they do, the treatment may be substandard or too late.

For Asian Americans, studies have shown that they underutilize mental health services much more than other populations. The National Research Center found that Asians were underrepresented in the outpatient system, and they were more likely than African Americans, Whites, and Hispanics to have psychotic disorders. Although overall rates of mental illness among Hispanics roughly equal that of whites, young Hispanics have higher rates of depression, anxiety disorders, and suicide. The study also found that Hispanics born in the United States are more likely to suffer from mental illness than those born in Mexico or living in Puerto Rico. With African Americans being overrepresented in populations at high risk for developing mental illness—namely, the homeless, prisoners and children in foster care—the need for mental health treatment is generally higher. All three of these particular cultures have stigmas attached to mental illness along with social battles preventing treatment from being obtained. Even research on the mental health of minorities is sparse considering it was only in 1994 when the National Institute of Health started to require that its funded studies include minorities and that studies indicate a subject's race.

The research that does exist is startling. About 25% of African Americans do not have health insurance and many who do are more likely to receive care from a primary health provider rather than a mental health specialist or end up in the emergency room looking for help. As I mentioned, African Americans are over-represented in high-need populations that are particularly at risk for mental illnesses. One population group is the homeless, of which African Americans make up about 40% of the homeless population. Another is the prison population that is comprised of nearly half of all prisoners in State and Federal jurisdictions and almost 40% of juveniles in legal custody are African American. African American children and youth constitute about 45% of children in public foster care and more than half are waiting to be adopted. African Americans are also more likely to be victims of serious violent crime. One study reported that over 25% of African American youth exposed to violence met diagnostic criteria for posttraumatic stress disorder. When compared to whites who exhibit the same symptoms, African Americans tend to be diagnosed more frequently with schizophrenia and less frequently with affective disorders. In addition, one study found that 27% of blacks compared to 44% of whites receive antidepressant medication. Moreover, the newer SSRI medications that have fewer side effects are prescribed less often to African Americans than to whites. And while the rate of bipolar disorder is the same among African Americans as it is among other Americans, African Americans are less likely to receive a diagnosis and, therefore, treatment for this illness.

One of the high-risk populations that overly effect the African American population, the prison population, is of an extreme concern of mine. This year an estimated 600,000 exoffenders will be reentering communities across the nation. According to the U.S. Department of Justice, about 283,000 people who are incarcerated on any given day in the United States are known to have a mental illness, with almost 550,000 others on probation. The rate of mental illness in the jailed population is four times greater than that in the general population. The Cook County Jail in Chicago has become, by default, the largest psychiatric facility in the state of Illinois. At least 10% of the Facility's 10,000 detainees are on psychiatric medications. Because the jail is overcrowded, prisoners must be released every day, whether they are ready or not, to make room for new arrivals. Unfortunately, our prison system's purpose is social control, not treatment. This means most of the detainees who have a mental illness are released with just a prescription and the address of a mental health facility and receive very little follow-up.

Mr. Speaker, we have made much progress in mental health awareness—we are talking about it today, which would have been unheard of 15 years ago. But we have so much to do. In our recent budget crisis, states are cutting mental health funding first and not realizing the cost it will be on our society later. Education and breaking down misconceptions that many cultures face need to be improved. We need to ensure that our citizens are receiving the help they need by providing equal mental health services to all.

HONORING HUGH LEE ''H.L.'' CULBREATH, JR.

HON. JIM DAVIS

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 2, 2003

Mr. DAVIS of Florida. Mr. Speaker, I rise in honor of Hugh Lee ''H.L.'' Culbreath Jr., one of Tampa Bay's most influential and charitable business leaders. H.L.'s passing last weekend is a tremendous loss for our entire community.

A graduate of the U.S. Naval Academy, H.L. served our country in the Navy for 10 years. His final assignment was as a staff member to President Dwight Eisenhower at the White House and as officer in charge of Camp David.

In 1957, H.L. returned to his native Tampa to begin working for TECO Energy. Over the course of his 40 years of dedicated service to TECO, H.L. worked his way up the ladder to become chief executive officer and chairman of the board. Along the way, H.L. instilled in TECO the idea that giving back to the community is good for business.

H.L.'s contributions, civic activities and honors are countless, but his life long endeavor to improve the quality of life for Tampa Bay residents and bolster our city's reputation is clear. In an effort to enrich downtown Tampa, he fought to establish the Tampa Bay Performing Arts Center and served as its inaugural chairman and trustee. H.L. fought to bring a National Football League franchise to Tampa, and our Buccaneers justifiably rewarded him for his efforts by winning the Super Bowl this year.

H.L. served as chairman of the Board of Governors of the Greater Tampa Chamber of Commerce and the Committee of One Hundred, a member of the Mayor's Downtown Advisory Committee, a board member and chairman of the Hillsborough County Hospital Authority, a member of the Florida Council of 100, which gave him the Hall of Fame award. He was active in the United Way and honored for his contributions to Boy Scouting by the Explorers of the Boy Scouts of America, Gulf Ridge Council. The Tampa Civitan Club named H.L. Citizen of the Year in 1979 and the Hillsborough County Bar Association gave him a Liberty Bell award, in recognition of his community service.

H.L. personified the attributes of leadership and service to an exemplary level, rarely seen in our community. For members of the Tampa Bay community, H.L.'s impact is as far as the eye can see and will endure for countless generations. On behalf of our community, I extend my deepest sympathies to his family and friends.

CONGRATULATIONS TO COLE WOOD—A 6TH GRADER WHO UNDERSTANDS FREEDOM

HON. MARION BERRY

OF ARKANSAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 2, 2003

Mr. BERRY. Mr. Speaker, I rise today to recognize Cole Wood, a young man whose definition of freedom won him the ''Spring 2003 Essay Contest'' at the Sixth Grade Academic Center in Jonesboro, Arkansas.

Mr. Speaker, when Cole Wood was asked to define the word freedom for the essay contest he chose to focus on the Bill of Rights, the Constitution and, ''the great presidents that have brought this nation through times of thick and thin.''

Freedom, for so many Americans, is still taken for granted. While Mr. Cole's essay rightfully draws our attention to the founding father's legacy, it should also call to mind those men and women who have fought so bravely to ensure that our freedom endures. More importantly, it should evoke our sense of duty to those veterans and remind us that they deserve our support as well as our respect.

Mr. Wood also recalled the tragedy of September 11th as he described the meaning of freedom: ''At first I was scared, but when I saw all the people donating and sticking together, I didn't feel sad anymore, I felt proud and strong. I was proud to be an American, proud to know I was free.''

That pride is what makes this country great. It is the pride that inspires young people like Mr. Wood to be responsible leaders of our nation. It is the pride that should infect every decision we make as elected representatives.

On behalf of Congress, I extend congratulations to Cole Wood for winning this essay contest and for reminding all public servants why we are here today.

MOBILE MACHINERY TAX FAIRNESS ACT

HON. PAUL RYAN

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 2, 2003

Mr. RYAN of Wisconsin. Mr. Speaker, I rise today, along with Congressman POMEROY and 79 original cosponsors from both sides of the aisle, to introduce the Mobile Machinery Tax Fairness Act. This legislation is designed to preserve the longstanding exemption of special mobile equipment, or ''mobile machinery,'' from federal highway excise taxes.

Mr. Speaker, since the highway trust fund was originally created almost 50 years ago, it has been the policy of the federal government to exclude from taxation certain vehicles whose primary purpose is to perform an off-road function. Mobile machines, such as mobile cranes, concrete pumpers, and mobile drill rigs, bucket trucks, and digger derricks, only use the public highways to travel back and forth from the job site, and sometimes stay there for weeks or months at a time.

However, in June of 2002, with little debate and no input from Congress, the Internal Revenue Service (IRS) proposed a complete elimination of the mobile machinery exemption.

If adopted, the IRS proposal would force businesses that use mobile machinery to pay the vehicle excise tax (12 percent of the chassis price) and, the motor fuel tax (18.4 cents per gallon on gas and 24.4 cents per gallon on diesel), as well as the tire excise tax and heavy vehicle use tax.

This change would cost the affected businesses tens of millions of dollars each year in increased taxes. Furthermore, a significant majority of the firms that would be paying this tax are smaller businesses in economically sensitive industries such as commercial and residential construction, oil and gas production, and timber harvesting.

Finally, the IRS proposal would undermine current economic policy by counteracting, and in some cases eliminating, the depreciation bonus for new equipment enacted by Congress as part of the ''Post-9/11'' economic stimulus package.

IRS has since delayed its regulatory proposal. However, it is now using two recent Federal court decisions to effectively deny nearly all claims for mobile machinery-related tax refunds.

Only Congress can head off IRS's actions and restore the exemption which has served industry for 26 years. My legislation simply preserves the current regulatory exemption in statutory form and I ask my colleagues to support this important legislation.

HONORING THE 150TH ANNIVERSARY OF WARTRACE, TENNESSEE

HON. BART GORDON

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 2, 2003

Mr. GORDON. Mr. Speaker, I rise today to honor the 150th anniversary of one of the friendliest towns you will ever find—Wartrace, Tennessee. Established as a railroad depot, the town was chartered by Bedford County on October 3, 1853.

Early frontier settlers endured fighting between British and French soldiers and attacks by hostile Indians. Legend even has it that the town was named after an old Cherokee Indian war trail. But as the frontier moved westward and the area became more civilized, industry and tourism flourished with the railroad.

Today the town has settled into a less hectic pace of life. Wartrace is now a small Middle Tennessee community with a strong sense of unity and a desirable quality of life. I congratulate its leaders and Mayor Donald Gallagher for developing Wartrace into a safe, neighborly community. May the town's next 150 years be as prosperous and successful as its first 150 years.

HONORING KERRY G. NEIS, DEPARTMENT OF THE ARMY CIVILIAN FIREFIGHTER

HON. TERRY EVERETT

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 2, 2003

Mr. EVERETT. Mr. Speaker, I would like to pay tribute to a hero from my congressional district in Alabama who gave his life in the line of duty. Kerry G. Neis of Enterprise died last December as a result of an accident during a training mission at Fort Rucker, Alabama.

Neis, a Department of the Army Civilian firefighter stationed at Fort Rucker, leaves behind a wife, Katherine, and their daughter, Sarah.

Neis' dedication to duty has earned him the respect of not only his comrades at Fort Rucker and across the Wiregrass, but among his peers around the nation. He will be honored along with America's other fallen firefighter heroes during the National Fallen Firefighters Foundation's Memorial Weekend conducted this October 4 and 5 in Washington, DC.

The following in an excerpt from a tribute to her late husband submitted by Katherine Neis for the Memorial Weekend ceremony.

> At 31 years old, Kerry was shockingly taken from us on December 4, 2002 in a tragic accident, when his firetruck jumped out of gear and ran away. No one, not his crew, his captain, or fellow firefighters could have expected it, and it was over before any of them even knew what had happened. But even in death, Kerry's life of service and dreams of helping others in need continue. New training procedures have been implemented and new safety mechanisms have been installed on the trucks. Kerry is still working hard to ensure the happiness and security of us all.

On behalf of this House, I offer my condolences to Kerry Neis' family as we remember the life and sacrifice of one of America's heroes.

TRIBUTE TO IRA AND KATHY GRIBIN

HON. HOWARD L. BERMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 2, 2003

Mr. BERMAN. Mr. Speaker, I rise to pay tribute to my good friends, Ira and Kathy Gribin, who are being honored by the Hope Through Housing Foundation with the prestigious Founder's Award. Their commitment to providing affordable housing for low-income families in Southern California has earned them this recognition.

I have had the privilege of working with Ira for many years and know first-hand of his strong work ethic and legendary accomplishments. Ira has been a leader in the real estate business since 1946 and has been an active member of numerous national and local realtor associations for many years. He served as President of the National Association of Realtors, the Realtors National Marketing Institute, the California Association of Realtors and the San Fernando Valley Board of Realtors. Additionally, he has served as a board member of many real estate and non-profit organizations and is co-founder of Gribin von Dyl, Realtors.

Ira's vast knowledge on issues related to real estate, financing and management has helped him become a renowned and sought after authority in these fields. He has taught at the University of Southern California and California State University Northridge, and has also served on the University of California President's Advisory Committee. The demand for Ira's talents has transcended the private sector into the public service arena as well. He served as Commissioner of Transportation and Commissioner of the Housing Authority for the City of Los Angeles.

I have known Kathy for many years, and can attest to her invaluable service and outstanding contributions to the Hope Through Housing Foundation. Prior to her arrival in California, she enjoyed a fruitful career as a school teacher. Once in California, she became a successful real estate broker. In 1992, she expanded her career, earning an M.A. in Marriage, Family and Child Counseling. Her education and experience made her keenly aware of the acute need for affordable housing in Southern California and prompted her to dedicate time, energy and resources to creating affordable housing for low-income children, seniors and families. She used her business acumen and extensive knowledge of the industry to positively impact numerous low-income families. Kathy is currently President of Desert Horizons Women's Club, a member of the Board of Directors of Desert Horizons Owners Association and an avid golfer.

On a personal note, both Ira and Kathy are wonderful human beings, delightful to be with and deeply committed to humanitarian ideals. I think it's particularly noteworthy that Ira—as a leader in the California Association of Realtors 39 years ago—played a decisive and public role in fighting an initiative designed to repeal California's Fair Housing law. It took great courage to take a view not widely held by his professional colleagues at that time, and he put himself into considerable potential risk to his business endeavors, but Ira nonetheless steadfastly affirmed his opposition to racism and his commitment to the American dream of affordable housing for all people.

Mr. Speaker, I invite my colleagues to join me in congratulating and thanking Ira and Kathy Gribin for their many outstanding contributions and to wish them continued success.

RESOLUTION COMMEMORATING THE LIFE AND ACHIEVEMENTS OF ALTHEA GIBSON, H. RES. 386

HON. ELIJAH E. CUMMINGS

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 2, 2003

Mr. CUMMINGS. Mr. Speaker, it is with a profound sense of pride that I rise today in support of the Resolution, sponsored by Representative JUANITA MILLENDER-MCDONALD, commemorating the life and achievements of the great African American tennis legend, Althea Gibson. This trailblazer died on Sunday, September 28, 2003 at the age of 76. I stand here today to pay tribute to her fighting spirit.

Mr. Speaker, long before there was a Venus or Serena Williams there was Althea Gibson. As we celebrate the impressive records accumulated by these two tennis stars we often forget that it was just a little over 50 years ago that tennis was an all-white sport.

Born on August 25, 1927 in Silver, South Carolina, this 5-foot-11 black woman boldly challenged the conventional wisdom of the day. Overcoming the depths of racism and adversity, Althea Gibson's pioneering efforts to integrate the sport paved the way for the likes of Arthur Ashe, Venus and Serena Williams, Tiger Woods, and future generations of aspiring African American athletes. America owes her a tremendous debt.

Her list of accomplishments is impressive. Breaking the color barrier in the 1950s, Althea Gibson became the first African American woman to compete at and win the Wimbledon and U.S. national tennis titles. She was also the first African American player on the Ladies Professional Golfers Association Tour. Between 1956 and 1958, Althea Gibson captured the Wimbledon and United States championships and won the French Open and three Wimbledon doubles titles. In 1957, she was the first African American to be voted by the Associated Press as its Female Athlete of the Year. She won that honor again in 1958.

Ms. Gibson attended Florida A&M University where she was initiated as a member of Alpha Kappa Alpha Sorority, Incorporated. She died as a ''golden soror'' of this elite organization after being a member of the sorority for over 50 years.

In closing, Mr. Speaker, I leave you with words that are attributed to this great first lady of tennis— ''. . . here stands before you a Negro woman, raised in Harlem, who went on to become a tennis player . . . and finally wound up being a world champion, in fact the first black woman champion of the world.''

Mr. Speaker, again it is my honor and privilege to lend my wholehearted support to this important resolution—which honors and commemorates the life and achievements of this great African American woman. I urge all of my colleagues to support the Resolution, H. Res. 386, which honors the indomitable spirit of Althea Gibson.

SUPPORTING GOALS OF IMMIGRANT WORKERS FREEDOM RIDE

HON. BETTY McCOLLUM

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 2, 2003

Mr. MCCOLLUM. Mr. Speaker, yesterday, hundreds of immigrant workers all over the country converged in Washington on their way to New York City as part of the Immigrant Workers Freedom Ride. They are here to raise awareness about the plight of immigrant workers.

Over the years, the United States has been called a nation of immigrants. The fact that we are a melting pot for so many different cultures, races and religions makes us unique in the world. It has helped mold our national character. For more than 300 years, various ethnic, cultural, and social groups have come to our shores to reunite with their loved ones, to seek economic opportunity, and to find a haven from religious and political persecution. They bring their hopes and dreams and in turn, contribute, enrich and energize America.

In my home state of Minnesota, immigrants have worked hard to establish a rich culture and strong economy.

Many immigrants in my state become American citizens. In 2002, over 5,400 immigrants became American citizens in Minnesota. Sixty-five percent of immigrants in my state who are eligible for naturalization become citizens.

These new Americans work hard, pay taxes and make indispensable contributions to our economy. Through their tax payments, they help finance the costs of schools, health care, roads, welfare payments, Social Security, and the nation's defense.

I am proud to be a cosponsor of a resolution introduced by my colleagues Representatives HILDA SOLIS and MIKE HONDA supporting the goals of the Immigrant Workers Freedom Ride: to create a clear road to citizenship for all immigrant workers, allow workers to reunite their families, ensure immigrants' civil rights and liberties, and protect the rights of immigrants in the workplace.

Our country was founded on the strength of our immigrant communities. A strong immigration system is a sign of a confident and successful nation, and we should welcome those who, in that spirit, seek to make the United States their home.

IN HONOR OF DR. JOAN PATON ACOSTA

HON. XAVIER BECERRA

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 2, 2003

Mr. BECERRA. Mr. Speaker, it is with utmost pleasure and privilege that I rise today to recognize and pay tribute to Dr. Joan Paton Acosta, an outstanding educator, a passionate advocate for our youth, and a wonderful friend and confidant. Dr. Acosta will retire this Thursday, October 2, 2003, after 38 years of exceptional service to the students and families of the Los Angeles Unified School District (LAUSD).

A Los Angeles native, Joan is a product of the very school district to which she committed her professional career. She is a proud alumna of 68th Elementary, Audubon Junior High, and Dorsey High School. Her public education served her well on the path toward achieving a masters from California State University at Los Angeles in 1968, and a doctorate from Claremont Graduate University in 1978.

Joan has become such an indispensable asset at LAUSD, with so many accomplishments, that her curriculum vitae is not stored on its computer database, but within the veteran microfiche files. She began her career with the school district on February 1, 1965, as a third grade teacher at Ford Boulevard Elementary School. Since that initial teaching position, Joan has worked as a special education teacher, an advisor and administrative coordinator at the Office of Legislation and Government Affairs, an administrator at the Office of Chief Advisor, and as an administrator in legislation and grants for the Division of Special Education. In 1984, Joan received the prestigious Theodore Bass Memorial Teacher in Politics Award, for her political activism and contribution to education.

Los Angeles families are forever indebted to Dr. Acosta for her instrumental role in the pursuit of an accurate Census for the year 2000. Her work organizing LAUSD's ''We Count'' outreach campaign targeting typically undercounted and highly mobile minority families ensured that thousands of Angelenos were counted, many for the first time.

Mr. Speaker, most of us wake up in the morning and, after subduing the regular aches and pains of life, move on to enjoy another day. We take for granted that simplicity of life. Joan Acosta understood how precious and complex living each and every ''next day'' could be, especially for our children. Joan leaves her work in Los Angeles and our nation's capitol, Washington D.C., as a true champion for disabled students. I am personal witness to—and willing victim of—her tenacious advocacy for increased funding for special education programs and reauthorization of the Individuals with Disabilities and Education Act.

In addition to her hard work and dedication to the students of LAUSD, Joan has also fought for the teachers of the Los Angeles Unified School District. Joan was one of the initial organizers of United Teachers Los Angeles (UTLA), which today represents the 44,000 teachers, counselors, psychologists, and nurses in LAUSD. Widely recognized by the teaching community as a leader, Joan has been elected by her fellow educators to represent them on the Board of Directors of UTLA, all the way to the 2.7 million strong National Education Association (NEA), where she served as the alternate to the NEA Board of Directors from California, and as a member of the body's Resolutions Committee.

Regardless of what department or position Joan has served, she has always left a lasting mark, thanks to her professional demeanor, devotion to education, and cheerful disposition. Her smile is infectious, and I have never known her to start a day without it. Joan has rightfully earned her reputation as a dedicated public servant, committed educator, and advocate for the rights of all students and employees of the Los Angeles Unified School District.

Joan's retirement marks the final chapter in a distinguished career in education that began and ends in Los Angeles. I wish her much luck and leisure in the days to come when she

can enjoy her cherished pastimes of wine tasting and traveling. However, if I know Joan, I am sure we have not witnessed the last of her talents. She will always be a powerful and unyielding voice for children.

Mr. Speaker, as family, friends, and colleagues gather to celebrate Joan's many accomplishments, it is with great admiration and pride that I ask my colleagues to join me today in saluting this exceptional woman. May we all be fortunate to wake up for many days to come and appreciate the simplicity of a better life that Dr. Joan Paton Acosta has secured for our children.

NEW FREEDOM COMMISSION ON MENTAL HEALTH RESOLUTION

HON. GRACE F. NAPOLITANO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 2, 2003

Mrs. NAPOLITANO. Mr. Speaker, I rise today to introduce my resolution regarding the report by the President's New Freedom Commission on Mental Health. I urge my colleagues to support this resolution and adopt the goals and recommendations of the Commission's report. As we commemorate Mental Illness Awareness Week, we must take steps to implement these goals and ensure affordable, accessible, and high quality mental health care for all Americans.

I commend the Commission for their insightful and informative report. Almost one quarter of all Americans currently suffer from a diagnosable mental disorder, but a only small fraction of them actually receive the treatment they need. This is unacceptable. The Commission's report provides us with six key goals and corresponding recommendations that will help ensure that all Americans who need mental health services receive them in an effective manner.

The goals of the Commission are as follows:

(1) To help all Americans understand that mental health is essential to overall health;

(2) To make mental health care consumer and family driven;

(3) To eliminate disparities in mental health services;

(4) To make early mental illness screening, assessment, and referral to services common practice;

(5) To ensure delivery of excellent mental health care and acceleration of mental illness research; and

(6) To use technology to access mental health care and information.

It would be a tragedy to ignore the Commission's report and its sensible recommendations. Every year we lose approximately 30,000 lives in the U.S. to suicide. Every year we lose millions of dollars in lost productivity due to mental illness. Many of these lives and dollars could be saved if high quality mental health services were accessible to all.

I call upon all of my colleagues in Congress and my friends in the Administration and in the mental health advocacy community to work together and take the necessary steps to implement the Commission's goals and dramatically improve mental health care in this Nation.

CONGRATULATIONS TO TAIWAN ON FORTHCOMING NATIONAL DAY

HON. MELVIN L. WATT

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 2, 2003

Mr. WATT. Mr. Speaker, I rise today to recognize and congratulate Taiwan on its forthcoming National Day. In recent years, Taiwan has impressed the world with its spectacular economic and political accomplishments. Even though Taiwan has many challenges ahead, I am confident Taiwan will continue to prosper both economically and politically now and in the future.

HONORING WAYNE AND JO HITCHCOCK

HON. MICHAEL BILIRAKIS

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 2, 2003

Mr. BILIRAKIS. Mr. Speaker, I rise today to honor two wonderful individuals who dedicated their lives to defending America and helping those who fought for our freedom.

Wayne and Jo Hitchcock were long-time constituents and close friends of mine. Wayne was an Army Air Corps tail gunner who flew missions over Hungary during World War II. He was shot down during his 14th mission and subsequently spent 13 months as a prisoner-of-war in Stalag 17B, which was liberated by Patton's Third Army in May of 1945. Wayne received the Air Medal with one Oak Leaf, the European Campaign Medal with four stars, and the Prisoner of War Medal for his heroism.

Wayne returned to his native Indiana after the war and became a homebuilder, land developer, and real estate broker. He also returned to government service and retired after serving as a postmaster for 23 years. He then moved to Florida where he and Jo devoted themselves to helping ex-prisoners of war.

I met Wayne and Jo before I was first elected to Congress. I am glad I did. They helped educate me about the many issues important to those who served our country in uniform, especially ex-prisoners of war. They brought to my attention an inequity which penalized the survivors of veterans who were completely disabled at the time of their deaths but whose deaths were not the result of their service-connected disability. To receive the benefits to which they were entitled, these widows had to meet requirements far above those of their counterparts whose husbands died as a result of their service-connected disability. I introduced legislation, which eventually became law, to fix this problem after Wayne and Jo brought it to my attention.

Wayne and Jo were actively involved with the American Ex-Prisoners of War, serving on various committees and posts at the department. Wayne eventually served as the Senior Vice Commander and as the National Legislative Chairman and Legislative Reporter. He became National Commander in 1997. He also was a life member of the Veterans of Foreign Wars, American Legion, and the Disabled American Veterans.

In addition to their work for ex-prisoners of war, Wayne and Jo also were very active in many volunteer and charitable organizations in the community. Wayne was a forty-year member of Lions International and was Boy Scout Master for more than 20 years. Jo spent her time running from meeting to meeting of the many charitable organizations to which she belonged. After Wayne's death in 1999, she also served as president of a local Ex-POW chapter until her death earlier this year.

Mr. Speaker, Wayne and Jo Hitchcock were two outstanding individuals who loved their country and those who fought for it. They made this country better for ex-prisoners of war and for the many people with whom they came into contact. I miss them both, as do the many people who are forever indebted to them.

SUPPORTING THE IMMIGRANT WORKERS FREEDOM RIDE

HON. JOE BACA

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 2, 2003

Mr. BACA. Mr. Speaker, I rise to give tribute to the Immigrant Freedom Ride. These immigrants have crossed the country to ask Congress to allow them a process for naturalization, increase the number of visas for family reunification, and to protect the civil and labor rights of immigrants.

Immigrants need a process to earn legal status. These immigrants work hard, pay taxes, and want to be productive legal members of our society.

Many immigrants live in solitude. Work and send their money home so that their children and families can survive. That is why immigrants need more visas so we can reunite families. No parent should be forced out of necessity to miss out on the life of his or her child.

And, we must protect the civil rights of all immigrants—including the undocumented. Too many immigrant workers are fired if they speak up about labor violations. Labor protections should apply to all workers, not just citizens. These demands are just.

Immigrants break their backs picking our fruits and vegetables, building our homes, and making our clothes. But, they will no longer be silent. They demand fair treatment.

This is a wakeup call. Immigrants are angry and will not be silent anymore.

I support the ideals of the Immigrant Freedom Ride and aim to help immigrants achieve these goals.

HONORING DOCTOR DAWOOD FARAHI

HON. ROBERT MENENDEZ

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 2, 2003

Mr. MENENDEZ. Mr. Speaker, I rise today to honor Dr. Dawood Farahi on his inauguration as the seventeenth president of Kean University. Dr. Farahi was inaugurated on Tuesday, September 30, 2003, at the Wilkins Theatre on the campus of Kean University.

On February 24, 2003, the Kean University Board of Trustees unanimously elected Dr.

Dawood Farahi to be the seventeenth president of Kean University. Dr. Farahi has been described as the embodiment of Kean University for his commitment to educational quality and affordability for its students. His leadership will undoubtedly bring Kean University to an even higher level of academic excellence.

Dr. Farahi was recently special assistant to the president of Kean University for both operations and technology. During this time, Dr. Farahi was responsible for the supervision of budget management, position control, enrollment services, and the office of computers and information systems. He created and implemented the Technology Institute, which provides training for faculty and staff in order to integrate computers into the curriculum and begin developing distance-learning courses.

Dr. Dawood Farahi has worked closely with state, county, and municipal officials in problem solving and technical capacities. Dr. Farahi developed and implemented a strategic information plan for the City of Elizabeth, New Jersey. As a result, the Elizabeth Police Department has been lauded as one of the 10 best in the nation. Working with the Elizabeth public school system, Dr. Farahi created the Vision 2000 Strategic Plan, which is now used as a model for many urban schools in New Jersey and throughout the nation.

Dr. Farahi was a Fulbright Scholar, and received a Ph.D with honors from the University of Kansas. He has been a full-time professor at Kean University since 1989, teaching Quantative Methods, Management Information Systems, and Strategic Management, and was honored in 1993 as the Graduate Teacher of the Year, and was named Teacher of the Year in 1996.

Today, I ask my colleagues to join me in honoring Dr. Dawood Farahi on his appointment as the seventeenth president of Kean University.

H. RES. 384, A BILL HONORING THE IMMIGRANT WORKERS FREEDOM RIDE

HON. LUCILLE ROYBAL-ALLARD

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 2, 2003

Ms. ROYBAL-ALLARD. Mr. Speaker, I rise today in support of House Resolution 384 that celebrates the successful journey of the Immigrant Workers Freedom Ride.

Inspired by the Freedom Riders of the 1960's Civil Rights Movement, a broad coalition of individuals including immigrants, union officials, religious leaders, and civil rights activists set out on September 20, 2003 from ten major U.S. cities to educate the public and elected officials about immigrant rights and the injustices of our country's current immigration policies. Over the last 12 days, 900 freedom riders in 18 buses have visited more than 100 cities, towns, and work places.

The freedom riders have educated communities across America about the hardships faced day after day by immigrant workers and their families. Immigrants work in every industry in America. They are construction workers, doctors, nurses, janitors, meat packers, farmworkers, engineers, and soldiers. They care for our children, tend to our elderly, pick and serve our food, build and clean our houses, and what they ask for in return is a fair and equal opportunity to achieve the American dream. Yet, our broken immigration system impedes many because they are unable to live and work freely. Far too many immigrants are exploited by their employers, separated from family, and unprotected by our laws. The Immigrant Workers Freedom Riders have renewed the spirit of the Civil Rights Movement in order to draw attention to the needs of this marginalized community.

But that is not where their effort ends. They have a plan of action—a solution to many of the hardships encountered by so many immigrants in this country. Their plan has four key proposals: a new legalization program for undocumented immigrants; the right of immigrants to reunite with their families; the protection of immigrants in the workplace; and civil rights and civil liberties for all.

To bring their plan to the attention of our national leaders, the Immigrant Workers Freedom Ride arrived in Washington, D.C. on October 1, 2003. I welcome, and congratulate them for embarking on this historic journey.

I particularly want to acknowledge the two buses of freedom riders from Los Angeles. Several of the participants are my constituents who have taken time from their jobs and left their families and children behind in order to make the long journey to Washington, D.C.

I met with a group of them on Thursday, October 2. What they told me was truly inspiring. Some have been in this country for several years while others have only recently arrived, but they all have a love and appreciation for America. They don't want or expect handouts. They believe in hard work and doing their part for our country. What they do want, Mr. Speaker, is what we all want—the opportunity to prosper and to obtain a good life for themselves and their families. They want to be full participants in every aspect of our society.

I applaud the Immigrant Workers Freedom Riders and commend the organizers for helping to ensure that immigrant voices are heard. I am encouraged by the support they have garnered across the country, and I hope that their tour will serve as a catalyst for fair and meaningful reform of our nation's immigration laws. Our immigrant community deserves greater protections under the law, and Congress has an obligation to provide it.

In the words of Rev. Martin Luther King Jr.: ''Let us therefore continue our triumphal march to the realization of the American dream . . .''

In keeping with Rev. Martin Luther King Jr.'s legacy, we are reminded today that the struggle for civil rights continues for many. The Immigrant Workers Freedom Ride is a renewal of a struggle for fairness and equality for all. I am hopeful that my colleagues and all of America will embrace it.

PERSONAL EXPLANATION

HON. ROB PORTMAN

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 2, 2003

Mr. PORTMAN. Mr. Speaker, on September 30, 2003, I was absent attending a meeting in my Congressional District in Ohio and missed the votes on Roll Call Number 524, the Motion to Instruct Conferees on H.R. 1, the Medicare Prescription Drug and Modernization Act; Roll Call Number 525, the Motion to Instruct Conferees on H.R. 1308, the Tax Relief, Simplification and Equity Act; and Roll Call Number 526, on H. Res. 357, Honoring the Life and Legacy of Bob Hope.

Had I been present, I would have voted ''Nay'' on Roll Call Number 524, ''Nay'' on Roll Call Number 525, and ''Yea'' on Roll Call Number 526.

CHILD NUTRITION PROGRAM EXTENSIONS

HON. MICHAEL N. CASTLE

OF DELAWARE

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 2, 2003

Mr. CASTLE. Mr. Speaker, along with my colleagues, Representatives JOHN A. BOEHNER, GEORGE MILLER, and LYNN WOOLSEY, I am introducing legislation to extend for one year provisions in the Child Nutrition Act, the Richard B. Russell National School Lunch Act, and the Commodity Distribution Reform Act that are vital to our Nation's effort to ensure that low income children have access to safe and nutritious food in school, after school, and during the summer months.

Members of the Committee on Education and the Workforce are busy preparing legislation to reauthorize and improve all the child nutrition programs included in the Child Nutrition Act and the Richard B. Russell National School Lunch Act, including the National School Lunch and Breakfast Programs, the Special Supplemental Nutrition Program for Women, Infants, and Children, known as WIC, the Child and Adult Care Food Program, the After School Snack Program, and the Summer Food Service Program. I have been pleased with this effort and the progress made in preparing a bill for introduction.

Despite our progress, Committee Members do not want to draft such important legislation in haste and so need additional time to ensure that any changes to the current law best serve the interests of the children whom these programs are intended to reach. Without the extensions included in this legislation, millions of needy children could lose access to healthy meals and snacks that are critical for their healthy growth and development and academic success in school.

This legislation includes a very important provision that allows children of our Armed Forces to continue receiving free- or reduced-price meals at school if they meet eligibility requirements. Without this legislation, families living in privatized military housing could not exempt their housing allowance from the income amount used to determine their children's eligibility for free- or reduced-price meals, like those living in military-owned housing currently can. Taking school meal subsidies from children when many of their mothers and fathers are fighting for our nation's security at home and abroad would have a devastating effect on these families.

Also included in this legislation is a provision that would continue the ability of for-profit child care centers to participate in the Child and Adult Care Food Program. This program provides meals and snacks to children in for-profit centers when at least 25 percent of the children meet the income eligibility criteria for free- and reduced-price meals.

Additionally, this legislation would extend the authority for schools, churches, and community organizations to operate Summer Food Service Program sites, and in 14 states, continue operation of special pilot programs that reduce paperwork requirements and thereby increase the number of low-income children who receive free meals and snacks during the summer months.

Finally, this legislation ensures that until a child nutrition reauthorization bill is signed into law, commodity distribution to schools will be maintained at sufficient levels and that schools will have funds available to replace commodities that pose a potential health or safety risk to students.

The child nutrition provisions that would be extended through this legislation benefit America's most vulnerable children. It is our duty as lawmakers to ensure that these at-risk children and their families can continue to receive the benefits for which they have been deemed eligible until the House and Senate complete work on legislation reauthorizing both the Child Nutrition Act and Richard B. Russell National School Lunch Act in their entirety.

PREVENT PRICE GOUGING DURING A DISASTER—SUPPORT THE P.I.G. ACT

HON. GERALD D. KLECZKA

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 2, 2003

Mr. KLECZKA. Mr. Speaker, as we have just seen following Hurricane Isabel, some vendors charged residents exorbitant rates for essential goods and services following the storm. A recent Washington Post article reports that in one instance, a tree-cutting firm wanted $17,000 to remove five trees that had already fallen to the ground. The same article refers to gasoline being sold for over $3 a gallon and bottles of water sold for $5 apiece.

While most merchants are honorable and help their neighbors by providing at a reasonable cost the products or services during a crisis, others seek to take advantage of these people in their time of need. Today I am introducing the Permanently Inhibit Gougers (P.I.G.) Act that would prohibit vendors from increasing prices on goods and services widely needed during a declared disaster.

Specifically, prices could not be increased by more than 10 percent in excess of the average price of a product over the last 90 days. This restriction would apply for the seven days before a foreseeable event and for the 90 days following a disaster. Increases in excess of 10% would be branded an unfair or deceptive business practice under the Federal Trade Commission Act. Reasonable exceptions would be made for vendors allowing them to raise their prices proportionally when their cost of doing business or acquiring wholesale goods increases during a crisis.

Additionally, violators would be subject to a civil penalty of up to $250,000. People who are the victims of price gouging would be able to sue the purveyor for damages up to three times the amount they overpaid.

Congress must act to prevent unscrupulous vendors from taking advantage of consumers during an emergency. We need to make it clear that such despicable behavior, which is as shameless as looting, will be punished severely in order to ensure that our constituents are not gouged at the worst possible time. I urge my colleagues to send gougers a strong message by signing on as cosponsors of this legislation.

HONORING CONSULEGIS

HON. PETER DEUTSCH

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 2, 2003

Mr. DEUTSCH. Mr. Speaker, I rise today to commemorate an important semi-annual conference that will be taking place in my district over the span of four days in October. Becker & Poliakoff, a highly respected and diverse commercial law firm based in Hollywood, Florida, has been chosen to host the Fall meeting of Consulegis, an international network of law firms.

Consulegis, an international association of independent law firms, was first founded in Germany to provide cross-country services when numerous restrictions once were in place that hindered commerce between many countries in Europe. Members of this organization include law practices that achieve the hallmark of being independent, commercially minded, and possessing the highest professional standards. Since its initial inception, the organization has grown rapidly, once encompassing more of Europe and then later expanding to include members from other continents of the world.

The founding principles that guide this exemplary international group are based on the premise that within our globalized commercial framework, cooperation and cohesion amongst a strong network of firms will bring forth the ideal results for their respective clients. Simply by working together, Consulegis and its independent firms can rely on a number of resources and a solidified level of trust to achieve their goals.

Mr. Speaker, it is truly a special occasion to rise today and honor this event. Not only am I proud of the respected law firm in my district, Becker & Poliakoff, which has proven worthy as a member of Consulegis to host this crucial conference, but I am encouraged by this organization's efforts to bridge gaps in the international community. Indeed, forming a reliable network of professionals all seeking to help their clients and spur growth in our international commercial framework only has proven to be positive in every sense. From partnerships such as Consulegis and the cooperation they foster, these firms have been trailblazers in understanding and harnessing the beneficial context of the international economy.

TRIBUTE TO CALVIN HOPPER

HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 2, 2003

Mr. McINNIS. Mr. Speaker, I rise before this body of Congress and this nation to pay tribute to an outstanding citizen. Calvin Hopper has worked for many years in the field of nuclear safety. His dedication and hard work has earned him widespread recognition, including the Outstanding Achievement Award from Colorado State University—Pueblo. Calvin is well accomplished in his field, and I am honored to recognize his achievements today.

Calvin is a distinguished Senior Development Engineer at Oak Ridge National Laboratory, where he works in nuclear criticality safety process analysis and program management. Prior to his current work, Calvin held many positions in the field, including helping to develop the Department of Energy Standard Practices Guide for criticality safety projects for the U.S. Nuclear Regulatory Commission. In addition, Calvin has served as the Deputy Advisor and Technical Expert to the U.S. Nuclear Technical Advisory Group and is a member of the American Nuclear Society, where he serves as chairman of several committees. Outside of his professional life, Calvin works to give back to his community through involvement in the Habitat for Humanity and the Oak Ridge Symphony Orchestra and Band.

Mr. Speaker, Calvin Hopper is a dedicated scientist and active citizen. His distinguished professional achievements and commitment to his community are truly an inspiration to us all. I am honored to join with my colleagues in recognizing Calvin here today.

ON THE ACCOMPLISHMENTS OF BOB MURPHY

HON. ANTHONY D. WEINER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 2, 2003

Mr. WEINER. Mr. Speaker, back home in New York, Mets fans are coping with the retirement of New York Mets announcer Bob Murphy. Murph was an original Met, having called Mets games since their inception in 1962, 42 seasons ago. He saw, and brought home to us, every peak and trough in between.

It's hard to explain the special bond that Mets fans have with Bob Murphy. But it is akin to a long-term friendship that begins in early childhood, suffers with you through adolescence, struggles with you through young adulthood, and triumphs with you through maturity. Friends who spend every summer day and night together, and whose hearts ache to be reunited during the long, cold winter.

As children, Bob Murphy tucked us in to bed at night. He sat with us in the classroom as we smuggled a radio into school. He rode with us as we sat in traffic. No matter what else was transpiring in our life, we could always turn to Bob Murphy bringing us a routine game in the middle of June, and be put totally at ease. Bob Murphy had that calming effect on us. Chicken pox, report cards, girlfriends all came and went—but through the years, Bob Murphy never left our side. He shared those moments with us all while bringing us to the edge of our seat, sharing with us the emotional roller coaster that comes with being a Mets fan.

He brought us laughter; he brought us tears (in the early years, often at the same time). In their history, the Mets have won two World Series and four pennants. But, nestled between those accomplishments, they have suffered at some of the leanest years that baseball has ever seen. All the while, our emotions

likewise ran the gamut; and there was Bob Murphy to share them with us.

His work behind the mike was as good as they come. One of my favorite calls remains the wild pitch thrown by Bob Stanley in the sixth game of the 1986 World Series. Everyone remembers the Bill Buckner error from that game. But, in truth, the biggest moment of that inning came a few pitches earlier, when Stanley's pitch to the backstop allowed Kevin Mitchell, the tying run, to score. Murph's succinct call was perfect. The excitement in his voice was unmistakable, and he let his brevity and his repetition indicate the profoundness of the moment.

''Gets away! Gets away! Here comes Mitchell! Here comes Mitchell! Tie game! Tie game . . .!'' And with that last ''tie game'' his voice trailed off—or maybe it was drowned out—to the loudest eruption that Shea Stadium has ever heard.

We're going to miss him. Bob Murphy gave a lot to us, more than we can ever thank him for. But today, on behalf of my colleges in the House of Representatives, I wish Bob Murphy the happiest of recaps to a tremendous career.

PERSONAL EXPLANATION

HON. BETTY McCOLLUM

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 2, 2003

Ms. McCOLLUM. Ms. Speaker, due to a scheduling conflict on September 25th, I was unable to vote on rollcall vote 522 and 523.

Had I been present, I would have voted ''yes'' on rollcall vote 522, the Motion to Instruct Conferees on H.R. 1, the Medicare Prescription Drug and Modernization Act. It is vitally important that the Medicare Conferees accept the Senate-passed provisions requiring a federal ''fallback'' prescription drug benefit; agree to the best provisions improving Medicare payments to health care providers in rural areas; and reject the cut in payments to hospitals in the House bill which will adversely affect hospitals in rural areas.

I would also have voted ''yes'' on rollcall 523, the Motion to Instruct Conferees on H.R. 1588, the Defense Authorization Act. At a time when we are asking more from our Reservists and National Guard than ever before, it is only fair that we provide these heroic women and men with the proper health care they need to care for themselves and their families. I will continue to support efforts toward a strong health care system for all our military women and men, and I encourage my colleagues to do the same.

RUFINO MENDOZA ELEMENTARY SCHOOL

HON. KAY GRANGER

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 2, 2003

Ms. GRANGER. Mr. Speaker, I rise today to recognize an outstanding elementary school in my district. As a former school teacher, it is my distinct pleasure to honor Rufino Mendoza Elementary School in Fort Worth, TX. Recently, Mendoza was recognized by the U.S. Department of Education as a national ''Blue Ribbon school.''

Rufino Mendoza Elementary was recognized for outstanding academic improvement, and Mendoza has worked very hard to achieve this honor. Mendoza has overcome incredible odds to offer the very finest education possible. Ninety-seven percent of the students at Mendoza Elementary school are of a minority background, and 87 percent of those students come from low-income families. In fact, most of the students qualify for the free lunch program, and 56 percent speak Spanish as their primary language.

In the past 4 years, Mendoza has moved from being simply ''acceptable'' to being an example of excellence for all schools across the Nation. Mendoza recognized its educational challenges 4 years ago and designed a plan to directly meet those challenges. Mendoza Elementary called together school administrators, teachers, and school district officials in a cooperative agreement to study the needs of each student. The result is an education system that is based on the needs and potential of every student.

I am very proud of the students, parents, teachers, and administrators at Rufino Mendoza Elementary. Thanks to their hard work, Mendoza is a symbol of hope and achievement for students in our community and across this Nation.

Rufino Mendoza Elementary, congratulations on being named a Blue Ribbon school.

PERSONAL EXPLANATION

HON. HEATHER WILSON

OF NEW MEXICO

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 2, 2003

Mrs. WILSON of New Mexico. Mr. Speaker, on Thursday, September 25, 2003, I voted against the Kind motion to instruct conferees on H.R. 1, the Medicare Modernization Act, when I intended to vote in the affirmative. The rolreall vote was 522. Let the record show I intended to vote ''yea'' on the motion.

TRIBUTE TO DR. JAMES HALL

HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 2, 2003

Mr. McINNIS. Mr. Speaker, I rise before this body of Congress and this nation to pay tribute to an outstanding citizen. Dr. James Hall of Livermore, California is a dedicated research scientist who diligently works to improve the safety of all Americans. James is a graduate of Colorado State University—Pueblo and is being recognized by that institution for his outstanding work in the field of science with their Outstanding Alumnus award. James is well accomplished in his field, and I am honored to recognize his achievements here today.

James is a Principal Investigator at Lawrence Livermore National Laboratory (LLNL) in. Livermore, California. His work includes utilizing nuclear technology to screen luggage and air cargo. James is a leader in his field, publishing over 60 articles, and he is a member of the American Physical Society. In the past, James worked with the U.S. Underground Nuclear Test Program and was selected by the Department of Energy to serve as their representative to the Eighth Joint Compliance and Inspection Commission in association with the Strategic Arms Reduction Treaty (START).

Mr. Speaker, James Hall exemplifies a life devoted to science and technological advancement. Through his hard work and dedication, James has worked to improve lives through scientific discovery. For his many accomplishments, I am honored to pay tribute to Dr. James Hall here today.

INTRODUCTION FOR THE KEEPING FAMILIES TOGETHER ACT

HON. FORTNEY PETE STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 2, 2003

Mr. STARK. Mr. Speaker, there is a tragedy going on across our country every day in which parents are being forced to turn over custody of their severely emotionally disturbed children to state child welfare agencies or the juvenile justice system as their only means of obtaining desperately needed mental health services. These instances of child custody relinquishment happen when families are uninsured or have inadequate health insurance to pay for treatment of their child's illness. Because this nation's social safety net is not designed to help these families stay together, parents are being forced to turn their child over to the state in order to get the medical attention they so desperately need.

The ''Keeping Families Together Act'' which Senator COLLINS, Senator PRYOR, Representative RAMSTAD and Representative KENNEDY, and I are introducing today will help end this barbaric practice of child custody relinquishment.

The problem is widespread. In a report we requested, the U.S. General Accounting Office report found that parents placed over 12,700 children in 19 states and 30 counties into the child welfare system or juvenile justice system as their only means to assure that these children could receive vitally needed mental health services.

The GAO report looked at a limited number of states and acknowledged that the number of families impacted nationwide is much higher. To add further credence to that finding, a recent survey conducted by the National Alliance for the Mentally Ill (NAMI) found that 25% of parents of children with serious emotional disturbance reported being advised to relinquish custody of their child in order to access needed mental health services.

According to another report by the Bazelon Center for Mental Health Law, the situations that cause parents and guardians to give up their seriously emotionally disturbed children to state agencies include the following:

The family has either exhausted their private health insurance benefits or their benefits do not cover required mental health services (e.g. Residential Treatment Program).

The family lives in a state or jurisdiction in which Medicaid services do not adequately address mental health needs and agency

placement provides access or priority status for entry into needed care.

The family lives in a state or jurisdiction in which children are deprived of federally mandated mental health services through the Individuals with Disabilities Act (IDEA) as a result of an exceedingly restrictive definition of serious emotional illness. That is, these schools often label these children as solely ''discipline problems.''

The family lives in a state or jurisdiction in which the local child welfare system erroneously interprets federal law (Title IV–E of the Foster Care and Adoption Assistance Program) as requiring relinquishment of custody even for temporary out-of-home placements.

As all of these reports highlight, families are acting out of desperation to get immediately needed mental health services for their children. In essence, the juvenile justice and child welfare systems have become the mental health providers of last resort for far too many families.

Both the child welfare system and juvenile justice systems are ill equipped to meet these children's needs. Even worse, the psychological bond between parent and child is unnecessarily disrupted. These children feel abandoned and their parents feel guilty over their parental rights and decision-making authority and to a state agency. The stigma is real—to families themselves and to those around them. Good parents don't have their children taken away. But, in fact, the need to relinquish custody in these instances doesn't have anything to do with parenting skills. It has everything to do with our system being broken and continuing to allow these children with significant mental health needs to fall through the cracks.

We have known about this problem for many years. In fact, I first introduced legislation in 1995 attempting to address this issue. Since then I have been working with my colleagues to educate the public and other members of Congress about this issue and to find a bipartisan solution.

Our legislation, the ''Keeping Families Together Act'' is the result of this bipartisan and bicameral process. Our bill provides new funding to states that are willing to develop systems that assure these children get the mental health services they need without pulling apart their families.

It provides $55 million in new family support grants to states that are willing to end the practice of child custody relinquishment and cover all these children's mental health services under Medicaid, CHIP or any other health program of their choosing. These monies can then be used to improve access to mental health and family support services that keep families together. They can also be used to create statewide care coordination programs and to deliver mental health care and family support services for these families.

Additionally, the bill establishes a federal interagency task force that is responsible for monitoring the family support grants and working with representatives of affected families to make recommendations to Congress to improve mental health services and to foster interagency cooperation in order to remove barriers that have caused child custody relinquishment. The task force is also required to provide biannual reports to Congress on its progress in improving the delivery of mental health services to seriously ill children.

The bill also provides states with the option of moving children out of hospital-based psychiatric care and into home and community based care options, which will allow them to remain with their families.

The Keeping Families Together Act is an important first step toward eliminating child custody relinquishment. I look forward to working with my colleagues to quickly enact this legislation so states can develop innovative new programs that address these children's mental health needs while keeping their families together. Once we've learned what has effectively worked at the state level to restructure these programs, we will need to return to this issue at the federal level and enact broad legislation to end the practice of forced child custody relinquishment nationwide.

INTRODUCTION OF THE KEEPING FAMILIES TOGETHER ACT

HON. PATRICK J. KENNEDY

OF RHODE ISLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 2, 2003

Mr. KENNEDY of Rhode Island, Mr. Speaker, the term ''family values'' can be politically loaded, but there is nobody in this body who doesn't want to strengthen families. Likewise, I am confident there is nobody in this body who would not be horrified by the prospect of parents being forced to turn custody of their children over to state bureaucrats as a condition of meeting their basic health needs. Nevertheless, each year thousands of families are broken up because parents are forced to relinquish their custody rights to the state in order to obtain mental health services for their children.

Forty years ago, my uncle, President Kennedy, signed legislation intended to allow people with mental illnesses to gain their dignity back, and to get out of warehouse-like institutions and back into the communities where they belong. The bill my colleagues, Mr. STARK, Mr. RAMSTAD and I are introducing today, the Keeping Families Together Act, is submitted in the same spirit.

Services to treat mental disorders in children are expensive and private insurance tends to run out after a few months, leaving parents unable to afford the cost. Without any other way to get their kids the treatment they need, parents all too often must choose between custody and care. The General Accounting Office reported in April that parents in 19 states were forced to place 12,700 children in state welfare or juvenile justice agencies in 2001 in order to obtain mental health services for them. Unfortunately, this estimate is considered to be low, because 31 states did not respond to the survey.

The problem is not about resources per se; the fact is, we're still spending lots of money, but instead of spending it to keep families together, we're tearing families apart. Clearly, we already have enough broken families in this country—the last thing we should be doing is breaking up more. It's cruel and barbaric to force children out of their families and it's inhumane to give a mom or dad the Hobson's choice between their child's health and safety or custody. It is unconscionable that we frequently reward the parents who make this ultimate sacrifice by treating them like common criminals. The current situation is not only awful for the parents. It's also hard to imagine any more counterproductive thing to do to children with serious emotional disturbances than to make them feel rejected by their parents.

The Keeping Families Together Act will provide competitive grants to states to help eliminate the problem of forced parental custody relinquishment of such children. Ultimately, it will facilitate the design of care for these most desperate children, so that when a moment of crisis occurs there is an alternative to the child welfare and juvenile justice systems. It will build on existing resources to develop an improved system of care through a collaborative process including required state and private partners, as well as other entities that the governor of the state determines appropriate.

In proposing the community mental health services act in 1963, President Kennedy said that our long history of neglect of the mentally ill must end, ''if our Nation is to live up to its own standards of compassion and dignity.'' As long as we continue to pull families apart as a condition for receiving mental health care, we are failing our own standards. I look forward to working with my colleagues in both Houses, from both parties, to end this blight.

HONORING SUFFOLK COUNTY COMMANDER PAUL DEVAUL'S COMMITMENT TO AMERICAN VETERANS

HON. TIMOTHY H. BISHOP

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 2, 2003

Mr. BISHOP of New York. Mr. Speaker, I rise today to honor the longtime dedication of Junior Past County Commander Paul DeVaul to the American Legion and veterans across the country. As Suffolk County Commander for the past two years, Mr. DeVaul has exemplified true commitment to Legionnaires and has proven to be a hero to veterans everywhere. I commend the American Legion for bestowing a well-deserved Testimonial on Mr. DeVaul.

As a member of Bay Shore Post No. 365 since 1990, Paul's steadfast devotion to our veterans community serves as a benchmark for what can be accomplished through an allegiance to history and experience as a community activist. Mr. DeVaul has formed a lasting bond between the American Legion and the Long Island community by establishing recognition programs for groups who support veterans and their organizations. As the current recording Secretary for the Soldiers and Sailors Memorial Committee, Paul has successfully aided his Post to take full control of the post home.

Mr. DeVaul is not only dedicated to improving the lives of our veterans but our youth as well. In creating a scholarship for outstanding music students in high school marching bands and developing an awe-inspiring Flag Day celebration for Commack elementary school, Paul has demonstrated the positive roles that our veterans organizations have in our communities.

Paul is an effective advocate for our veterans population and has a wealth of knowledge about American history. He is well-known in the community and can be counted on to deliver consistently heartfelt and moving

addresses which comforted the grief stricken Long Islanders in the aftermath of September 11, 2001.

After having spent time with Mr. DeVaul I consider him a true patriot and am proud to rely on his valuable insight as a member of my Veteran's Advisory Committee. I look forward to continuing my work with Paul on initiatives that advance the goals of the American Legion and all veterans. His commitment is exemplary and I have no doubt that Paul DeVaul will continue his great works for many years to come.

IN HONOR OF STANLEY FRIEDLANDER, RESIDENT OF THE 11TH CONGRESSIONAL DISTRICT OF OHIO AND PRESIDENT OF THE AMERICAN LAND TITLE ASSOCIATION

HON. STEPHANIE TUBBS JONES

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 2, 2003

Mrs. JONES of Ohio. Mr. Speaker, I rise today to honor a fellow Ohioan whose career and service deserves recognition. Stanley Friedlander is the outgoing president of the American Land Title Association (ALTA). The American Land Title Association is composed of 2,400 title insurance companies, their agents, independent abstracters and attorneys who search, examine, and insure land titles to protect owners and mortgage lenders against losses from defects in titles. Many of these companies also provide additional real estate information services, such as tax search, flood certification, tax filing, and credit reporting services. These firms and individuals employ nearly 100,000 individuals and operate in every county in the country.

Stanley's entrepreneurial spirit is inspiring. While attending Kent State University, Stanley started his first job in the title insurance industry and within a year had launched his own title agency. Currently, Mr. Friedlander is the president of Continental Title Agents Corporation, which he co-founded 30 years ago, based in Cleveland, OH. Stanley's four-decade career has been committed to helping the American dream of homeownership come true. It is no surprise that Stanley became president of the American Land Title Association.

As a title agent, Stanley insures that a property bought by a consumer comes with all ownership rights or a ''clean title.'' When purchasing a home or other real estate, one actually does not receive the land, but rather a title to the property, which may be limited by rights and claims asserted by others. Problems with title can limit one's use and enjoyment of real estate, as well as bring financial loss to both the individual purchaser and the mortgage lender.

Protection is available through title insurance. Title insurance, unlike other types of insurance, offers protection against loss arising from hazards and defects already existing in the title. The common types of problems include: deeds, will and trusts that contain improper vesting and incorrect names, outstanding mortgages, judgments and tax liens, easements or incorrect notary acknowledgments. Specifically, a previously undisclosed heir may make a claim against a property or a forged deed was used in the transfer of title making it invalid. Title insurance offers financial protection against these and other hazards through negotiations by the title insurer with third parties, payment for defending against an attack on title as insured, and payment of claims.

As President of ALTA, Stanley is committed to guiding his industry through a time of potential challenges and recently testified before the House Financial Subcommittee on Housing and Community Opportunity.

Mr. Friedlander is also a leader in his community. He has served on the Moreland Hills Community Council and is currently involved as a member of the community's Planning Commission and the Cuyahoga County Bar Association's Grievance Committee. He is also involved in Cleveland's Hebrew Free Loan Association whose mission is to provide interest free loans to those in need. Stanley has been active in the Ohio Land Title Association (OLTA), where he chaired the Education Committee, served on the Board of Governors, and as OLTA president.

Mr. Friedlander is married to Cheryl Karner, a common pleas court judge. Together they have two children, Jennifer and Joey both in their early twenties.

I am pleased to submit this statement for the CONGRESSIONAL RECORD. I congratulate Mr. Friedlander on his service to ALTA during the past year and wish him continued success.

TRIBUTE TO DANA PERINO

HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 2, 2003

Mr. MCINNIS. Mr. Speaker, I am honored to rise before this body of Congress and this nation today to pay tribute to an outstanding citizen. Dana Perino of Washington, D.C. is a talented and dedicated public servant. Dana is a product of Colorado State University—Pueblo and is being honored by that institution with its Outstanding Alumna award. For her dedication and hard work to her nation, I am honored to recognize Dana here today.

Dana has dedicated many years to the field of communications. She is the Director of Communications for the White House Council on Environmental Quality, which oversees implementation of the National Environmental Policy Act by all Federal agencies. Dana acts as one of the administration's primary spokeswomen with regard to environmental issues, taking complex issues and making them understandable so the message can get out to concerned citizens. Prior to her work with the White House, Dana served as press secretary for former Congressman Dan Schaefer and a staff assistant in my office. From that humble beginning, Dana has gone on to do great things.

Mr. Speaker, Dana Perino is a committed and hard working public servant. Her years of service to the citizens of Colorado and the Nation at large are truly an inspiration to us all. I am honored to join with my colleagues in paying tribute to Dana here today. Congratulations and I wish you all the best in your future endeavors.

HONORING ZURETTI GOOSBY, JR., HUMBOLDT COUNTY, CA

HON. MIKE THOMPSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 2, 2003

Mr. THOMPSON of California. Mr. Speaker, I rise today to recognize Zuretti Goosby, Jr., an extraordinary citizen of Humboldt County, California who has devoted his life to public service. He is being honored for his dedication to the highest and best principles of our democracy and for his contributions to the community.

Zuretti Goosby, Jr., who serves as Field Representative for State Senator Wesley Chesbro, has been a respected leader dedicated to empowering the economically disadvantaged. He was the Executive Director of the Redwood Community Action Agency which provides a broad spectrum of services to those in need. He has tirelessly committed his time, knowledge and considerable skills to enhancing health care services to those who are underserved and continues his service on various community policy and planning committees and boards of directors, including the Community Open Door Health Centers and St. Joseph's Hospital Advisory Committee. In addition, he served as President of the Board of the National Native American AIDS Prevention Center and Vice President of the Board of the Volunteer Center of the Redwoods Advisory Council.

Zuey Goosby, former Executive Director of the Yurok Tribe, has devoted himself to protecting the civil and human rights of all people, recognizing that many of our fellow citizens are still victimized by racism and poverty. He continues to contribute his efforts on behalf of indigenous cultures. He is committed to protecting the natural resource treasures of Northern California. He is a member of the City of Eureka Trails Committee and a member of the Board of Governors of the North Coast Regional Land Trust, the Humboldt Arts Council, Mainstreet Media Project and the Arcata Community Recycling Center.

A highly regarded member of the North Coast community, Zuey Goosby was born in Oakland, California and grew up in San Francisco. He and his late wife Sara came to Humboldt County and raised their two daughters, Jenckyn and Dara with care and devotion. He is a master gardener, kayaker and active walker.

Zuey Goosby is being recognized this year for his outstanding contributions to the political process by the Humboldt County Democratic Central Committee as the Democrat of the Year 2003.

Mr. Speaker, it is appropriate at this time that we recognize Zuretti Goosby, Jr. for his unwavering commitment to the ideals and values that sustain our great country.

THE HEALTH CARE SAFETY NET AMENDMENTS TECHNICAL CORRECTIONS ACT OF 2003

HON. MICHAEL E. CAPUANO

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 2, 2003

Mr. CAPUANO. Mr. Speaker, I rise today in strong support of H.R. 3038, the Health Care Safety Net Amendments and Technical Corrections Act of 2003. This bill makes small but significant technical changes to the Health Care Safety Net Improvement Act that I cosponsored in the 107th Congress.

As a co-chair of the Community Health Centers Caucus, I would like to recognize a fellow co-chair of the Caucus, and Chairman of the Subcommittee on Health, Mr. BILIRAKIS, as well as the Ranking Member, Mr. BROWN, for their work in bringing this bill to the floor.

In the 107th Congress, this body passed the Health Care Safety Net Improvement Act of 2002 with strong bipartisan support, demonstrating a continuing commitment to the work of community health centers and the National Health Service Corps. The technical amendments in this bill ensure that the original goals of that legislation will be realized.

It is fitting that we consider this bill today, as new Census Bureau figures released this week show that the number of uninsured Americans has increased at an even greater rate than anticipated. Community health centers play an invaluable role in serving this medically underserved population.

In addition, a recent study by the George Washington University confirmed what many of us who have personally witnessed the work of health centers in our districts have long known, that the presence of community health centers in medically underserved communities reduces racial and ethnic disparities in key measures of community health. Researchers showed a clear association between the high penetration of community health centers in a state and narrower rates of disparity in infant mortality, access to prenatal care, and total death rates.

The Health Care Safety Net Amendments and Technical Improvements Act will ensure that this essential work can continue. I urge my colleagues to support community health centers and vote yes on H.R. 3038.

GONE WITH GLOBALIZATION

HON. BARNEY FRANK

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 2, 2003

Mr. FRANK of Massachusetts. Mr. Speaker, on Tuesday, September 30, one of our nation's most thoughtful commentators on public policy, E.J. Dionne, Jr., published a very important article about globalization. E.J. Dionne is an enlightened and sophisticated student of world affairs, and he has been a consistent voice against isolationism, xenophobia, or any other prejudice against the rest of the world. So it seems to me particularly worth noting when he questions some of the assumptions that have long governed the opinion of many of the most highly educated people in this country about globalization. E.J. Dionne is not an opponent of increasing global economic integration, but like many of us who understand the inevitability of this, in this column he makes some extremely important points about how it has played out, and, what thoughtful public policy ought to be to deal with the downside of globalization. Indeed, the very fact that he here describes that downside makes this an important article, because too many of those who have embraced international economic integration have done so through an excessively rosy set of glasses.

It is not coincidental, Mr. Speaker, that both Mr. Dionne and I have a very important connection to the city of Fall River, Massachusetts. He was born and grew up there, and his family remained an important part of that city's cultural, religious and educational life for decades after he moved to Washington. I have had the privilege of representing Fall River in this body since 1982, and he and I have thus both had a chance to see first hand what the downside of globalization has been among many of our more vulnerable, hardworking citizens.

The balanced view of globalization which E.J. Dionne takes in this article is one that is sorely lacking in many quarters, and because this is one of the most important public policy issues confronting our country, I ask that E.J. Dionne's article be printed here.

[From the Washington Post, Sept. 30, 2003]

GONE WITH GLOBALIZATION

(By E.J. Dionne Jr.)

Except for the saints in our midst, everyone has prejudices including the well educated and well-to-do: But when upscale folks have prejudices, they usually call them ideas, convictions or principles.

So how can you tell when a principle is merely a prejudice? When someone keeps making an argument even though the facts suggest it no longer holds up.

It is time to ask whether the overwhelming support for free trade and globalization among well-off, highly educated people is more a prejudice rooted in their own self-interest than a matter of high principle.

Okay, maybe that's too harsh. So try this: Even if globalization made a lot of sense during the buoyant 1990s, shouldn't the troubling economic developments since 2000 force people to modify their views? Is it not now undeniable that globalization has serious costs that are not merely ''transition problems'' and that these costs are borne disproportionately by certain parts of the country and the society?

Now, I don't want to be accused of prejudice myself, so let me stipulate that most educated folks really believe on principle in free trade. They can rely on reams of writing by intelligent economists to support their view.

Moreover, no one likely to hold power in our country would return us to the days of William McKinley and high tariff walls. The globalizers are right when they argue that too many Americans are now reliant on the global economy for such policies to work.

But it ought to be equally obvious that the globalizers in both political parties were too carefree when they asserted in the 1990s that, well, yes, there are ''losers'' from globalization, but there are so many more ''winners'' that we really shouldn't worry. Those who lost out in this grand process would eventually find their footing, the argument went, and government could help them make the transition. By the way, where was all that help? In any case the prophets of our bright future said the United States shouldn't worry about ''old'' industries such as steel or apparel. It should worry about leading the way in all that is ''new'' and ''high tech.''

Having grown up in Fall River, Mass., a place whose job base was once rooted in the apparel industry, I've always felt that writing off an industry as, ''old'' is a lot easier for people who never depended on it. Maybe, that's an ''old economy'' prejudice on my part, especially since my home town has been remarkably inventive in giving birth to new enterprises.

Still, it's not a form of prejudice to cite statistics showing that the sharp decline in manufacturing jobs over the past few years has been accompanied by a decline in overall family incomes.

Consider the Census Bureau's report for 2002 showing that U.S. household incomes had declined for the third year in a row and that the number of Americans living in poverty had increased by 1.7 million in a year. The old manufacturing states—including Michigan, Illinois, Ohio, and Missouri—were among those hit, the hardest. (Politicians take note: These are swing states.)

The economists reassure us that the poverty rate is a ''lagging'' indicator and that a robust recovery will start lifting people up again. But will it? Is it not just as plausible to worry that the flight of jobs to China and elsewhere, courtesy of globalization, has combined with big improvements in productivity to create an economy that leaves many of our fellow citizens behind even in flush times?

The Institute for Supply Management, which keeps some of the best numbers on manufacturing, pleased the stock market earlier this month with report showing that economic activity in manufacturing grew in August, as it had in July. But its manufacturing emplopment index actually fell and remained below the 50 percent break-even point for job creation for the 35th consecutive month

If supporters of globalization really do hold principles and not prejudices, they should admit that the facts make it increasingly difficult to say that everything will eventually get better for everyone and that changes in the system will only make it worse. Worse for whom exactly?

Our tax and social policies are supposed to respond to inequities as they arise. But our current approach seems based mostly on begging China to fix its currency and praying for 5 percent growth. Michigan, as it sometimes has in the past, will just have to rely on a pass and a prayer.

The evidence suggests that we're not in the New Economy anymore but in a New New Economy with problems that weren't supposed to arise. The real lagging indicator is our economic thinking.

IN MEMORY OF BARRY BERINGER, CHIEF SCIENCE COMMITTEE COUNSEL, 1989–2003

HON. NICK SMITH

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 2, 2003

Mr. SMITH of Michigan. Mr. Speaker, I rise today to honor the memory of Barry Beringer, Chief Cousel of the House Science Committee, who passed away last week at the age of 57.

Originally from New Jersey, Barry graduated from Dickinson College in Carlisle, PA in 1968 with a bachelor's degree in political science.

He received his law degree three years later from American University Law School in 1971. After working for several years in the Reagan Administration as Associate Undersecretary of Economic Affairs in the Department of Commerce, Barry began working for the Science Committee in 1989.

I met Barry when I came to Congress in 1993. Like many Congressional freshmen, I was eager to go to work on getting many of my ideas incorporated into Federal policy, but I had little understanding of the politics and processes of Capitol Hill. It was Barry who in many ways served as my mentor as I learned about policymaking in the House. He was always available to answer questions, and was an extremely patient and knowledgeable resource for members. He had the highest respect of members of Congress and his colleagues in the House. More importantly, Barry was a caring man and a great friend to all of us who knew and worked with him.

I want to extend my heartfelt sympathy to Barry's wife Bonnie and their two children during this difficult time. He will be deeply missed by all of us.

TRIBUTE TO THE HONORABLE LOLA SPRADLEY

HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 2, 2003

Mr. MCINNIS. Mr. Speaker, I rise before this body of Congress and this Nation today to pay tribute to an outstanding citizen from my district. Lola Spradley of Beulah, Colorado is a dedicated public servant and a good friend. For years, Lola has worked to meet the needs of the citizens of the great State of Colorado through her work in the Colorado General Assembly, where she currently serves as Speaker of the House. For her dedication to Colorado, Lola is being recognized by Colorado State University—Pueblo with its Outstanding Service to the Community Award. She is a valuable public servant, and I am honored to pay tribute to Lola here today.

Lola is a true pioneer in Colorado politics, serving as the first female Speaker in the Colorado State General Assembly. For years, Lola has represented the needs of her district, working tirelessly to ensure that their voice is heard in the State Capitol. Before her term as Speaker, she served as the House Majority Leader from 2001 to 2002. In addition to her work in the State House, Lola has served on the Governor's Advisory Committee on Technology and as Chair of the Correctional Industries Advisory Committee.

Mr. Speaker, Lola Spradley has dedicated many years of service to the great State of Colorado. As Speaker of the House and as Representative of District Sixty, Lola diligently meets the needs of her constituents. I am honored to join with my colleagues today in paying tribute to Lola Spradley here today. Congratulations on your recognition, Lola, and I wish you all the best.

AMI SEMICONDUCTOR INITIAL PUBLIC OFFERING

HON. MICHAEL K. SIMPSON

OF IDAHO

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 2, 2003

Mr. SIMPSON. Mr. Speaker, I rise today to congratulate AMI Semiconductors on their initial public offering of common stock on the Nasdaq National Market. AMI Semiconductors began trading publicly on the Nasdaq on September 24, 2003, under the name AMIS.

AMIS is a leader in the design and manufacture of customer specific integrated mixed signal semiconductor products. The company focuses on the automotive, medical and industrial markets, which have significant analog interface requirements for real world applications.

Two years ago, AMI Semiconductors moved its headquarters from San Diego, California to Pocatello, Idaho, where it opened a new engineering and research center in the city. In 2001, the company appointed Christine King as its CEO and President. AMIS forged new territory by making Ms. King the first woman in the world to be named as the president of a semiconductor company.

While its headquarters are located in Idaho, AMIS maintains a global presence. It keeps sales offices and technical support centers throughout Asia, Europe and the USA. AMIS employs over 2,400 people worldwide, and about 1,100 of those employees work at their company headquarters in Pocatello. AMI Semiconductors has been a real asset to Idaho's local economy and business development. It is now the largest private employer in Pocatello, bringing new jobs and new economic growth to the area. In the past six months alone, they have created 130 new jobs in the region.

I want to take this opportunity to congratulate AMI Semiconductors on their initial public offering. I look forward to following their accomplishments in the business world and working with them over the coming months and years.

IMMIGRANT WORKERS FREEDOM RIDE

HON. MICHAEL M. HONDA

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 2, 2003

Mr. HONDA. Mr. Speaker, I rise today to express how thrilled I am to honor the immigrant workers for making their courageous journey across the country to fight for equality and civil rights. Modeled after the 1961 Freedom Rides of the U.S. civil rights movement, today's Immigrant Workers Freedom Riders are converging in Washington, D.C., after having visited cities and towns across America to raise awareness about the plight of immigrant workers.

This country was founded and built by immigrants. They are still the backbone of our country and we must continue to fight for their civil rights and immigration reform. Like countless Americans throughout our history, the Freedom Riders visiting our nation's capital today are seeking to fulfill their American Dream. They work hard and contribute tremendously to our country, and to our economy. They deserve fair and equal treatment.

We must come together to continue to educate our communities about the plight of these workers, and to end the injustices and indignities these immigrants face daily.

The Immigrant Worker Freedom Ride is sponsored by a large coalition of religious groups, labor unions, immigrant advocates, and civil rights organizations. State legislators and political leaders across the country have endorsed the Freedom Ride, including the Congressional Asian Pacific American Caucus, the Congressional Hispanic Caucus, and the Congressional Black Caucus.

There are many members of Congress like myself, who support efforts for meaningful and long overdue reforms such as: Providing a ''Road to Citizenship'' for immigrant workers, reuniting families in a timely fashion by streamlining our outdated immigration policies, and protecting and restoring workplace rights for immigrants.

Together, we will ensure that our message of equality and human dignity is heard. We will educate other members of Congress, and convince them to join our efforts.

HONORING DISTINGUISHED LATINO WRITERS

HON. RUBÉN HINOJOSA

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 2, 2003

Mr. HINOJOSA. Mr. Speaker, in recognition of the National Book Festival sponsored by the Library of Congress and First Lady Laura Bush, I rise today to honor three distinguished Latino Writers.

Jose-Luis Orozco is in many respects a multi-cultural teacher and musician and is recognized across the country for his contributions to bilingual education and literacy. His recordings and books share and transmit Latin American traditions and culture to millions of children. As a children's author, songwriter, performing artist, he has recorded 13 volumes of Lirica Infantil, Latin American Children's Music. He has also written two award winning books, De Colores and Other Latin American Folks Songs for Children (Dutton 1994) and Diez Deditos, Ten Little Fingers. (Dutton 1997).

Mr. Orozco was born in Mexico City. At the age of ten he traveled the world with the Mexico City Boys Choir. In 1970 after graduating from Mexico City School of Music, he moved to the United States. Initially, on a two week visit, Orozco permanently stayed and completed his master's degree in Multi-cultural Education from the University of California, Berkeley.

Jose-Luis Orozco continues to perform for children around the country at concert halls, libraries, and schools. He is a recognized expert in children music is a featured speaker and presenter at numerous educational conferences for teachers, parents, and librarians. Mr. Orozco is a valued resource for all who seek to use music as a multi-cultural learning tool. His passion and dedication to multi cultural education through music has impacted countless of individuals throughout the country.

Pam Munoz Ryan is the author of the novel Esperanza Rising, winner of the Pura Belpre Medal, a the Jane Addams Peace Award, and the American Library Associations' Top Ten Books for Young Adults and the Americas Award. In addition, her novel Riding Freedom has also gained wide recognition winning the Willa Cather Award and the California Young Readers Medal. Pam Munoz Ryan is also recognized for her picture books for young and older readers, such as the award winning Amelia and Eleanor Go For A Ride and also her work, When Marian Sang, is a recipient of the American Library Association's Sibert Honor, including the National Council of Teachers in English's Orbits Pictus Award.

Pam Munoz Ryan was born and raised in California in the San Joaquin Valley. She is the oldest of three sisters. She grew up surrounded by her aunts, uncles, and grandparents. During her childhood many hours were spent at the local library where her love of literature was cultivated. After receiving her Bachelor's and Master's degrees from San Diego State University, she became a teacher, an administrator, and after the encouragement from a friend a writer. Through her life's passion, as writer Pam Munoz Ryan has touched many lives.

Judith Ortiz Cofer is an English and Creative Writing Franklin Professor at University of Georgia. A native of Puerto Rico, her lectures center on biculturalism and the creative processes. She is driven by a deep belief in freedom of expression and the necessity to disseminate the literature and art of the many people contributing to the culture of the United States.

Her literary work is respected through the country being awarded The Anisfield Wolf Award for The Latin Deli, a collection of essays, short fiction, and poetry. In addition, she was awarded the first Pura Belpre Medal by Reforma of the American Library Association (1996) for her book, An Island Like You: Stories of the Barrio, which also garnered the American Library Association Best book of the Year 1995–96. She also is the author of Line in the Sun, a novel, a collection of personal essay and short stories, and her work Silent Dancing was awarded a PEN/Martha Albarnd Special citation for nonfiction.

Judith Ortiz Cofer has been awarded several fellowships from the National Endowment for the Arts and Witter Bynner Foundation For Poetry. In 1998 Judith Ortiz Cofer was awarded Paterson Book Prize for her work, The Year of Our Revolution: New and Selected Stories and Poems at Passaic County Community College; additionally, she was the recipient of Christ Janner Award in Creative Research from the University of Georgia. The Rockefeller Foundation also awarded her residency at the Bellagio, Italy Conference Center in 1999.

In celebration of Hispanic Heritage Month and The National Book Festival, I hope we take time to recognize the contributions of these and many other fine Hispanic authors. America's people come from rich and diverse cultural backgrounds. Literature is at the root of America's culture. These three authors have added tremendously to our diverse American cultural fabric

NATIONAL EARTHQUAKE HAZARDS REDUCTION PROGRAM REAUTHORIZATION ACT OF 2003

SPEECH OF

HON. SHEILA JACKSON-LEE

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 1, 2003

Ms. JACKSON-LEE of Texas. Mr. Speaker, I rise in support of H.R. 2608. This bill is the result of excellent bipartisan work by my colleagues on the Science Committee. I commend my colleagues, Congressmen SMITH and BAIRD, and Congresswoman LOFGREN for their leadership on this important issue.

Mr. Speaker, the reauthorization of the National Earthquake Hazards Reduction Program will promote good science and intelligent planning, and it will save lives. It is a smart investment in the future of this nation. This program rallies all the resources available in the federal government with expertise in earthquake response and damage mitigation, and focuses them on the task of readying ourselves for the next ''big one.'' It brings together FEMA, the U.S. Geological Survey, the Office of Science and Technology Policy and the OMB, in a concerted effort to assess our needs and to make preparations.

The bill will enable us to develop effective measures for hazards reduction, and will encourage implementation of those hazard reduction measures by Federal, State, and local governments through grants, standards development, and information sharing. This is a solid approach.

I was particularly pleased that an amendment I offered in Science Committee markup was accepted unanimously and is in the bill before us today. That amendment will ensure that the research that stems from this program taps into the great expertise and resources at this nation's Historically Black Colleges and Universities, as well as those that serve predominantly Hispanics, Native Americans, and other populations under-represented in the sciences. This will also ensure that our federal programs are inclusive of all Americans, not exclusive as they have been too often in the past.

Again, this is an excellent bill that resulted from strong bipartisan work. I was pleased to be a part of that process, and am pleased to support it today.

RECOGNIZING OF NATIONAL FIRE PREVENTION WEEK

HON. MICHAEL N. CASTLE

OF DELAWARE

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 2, 2003

Mr. CASTLE. Mr. Speaker, I rise today to recognize the observance of National Fire Prevention Week beginning Sunday, October 5, 2003. Celebrated every year since President Calvin Coolidge's official proclamation dedicating this week to educating the public on the benefits of practicing basic fire prevention measures, National Fire Prevention Week has undoubtedly given many the informational tools essential to saving lives and preventing unnecessary fire damage.

This week begins with the National Fallen Firefighters Memorial Service in Emmitsburg, Maryland to honor those heroes that lost their lives in the line of duty. To honor those that gave the ultimate sacrifice, I authored legislation, that became public law in 2001, to lower all flags on federal buildings to half staff on this day of remembrance.

During National Fire Prevention Week we must all educate and learn to protect ourselves and others. I urge all individuals to take the proper steps to ensure the safety of their families and loved-ones by installing and routinely checking smoke detectors, developing and practicing home evacuation plans, and identifying potential fire hazards throughout the home.

This year's National Fire Prevention Week theme is ''When Fire Strikes: Get out! Stay out!'' As a member of the Congressional Fire Services Caucus, I know the vital importance of this message. In the United States nearly 6,000 people die each year in their homes, nearly 80 percent of all fire fatalities. Tragically, many fires and can be prevented if only individuals practice the proper preventative measures.

Mr. Speaker, I commend the National Fire Protection Association for their work each year in commemorating Fire Prevention Week. I also would like to thank the fine men and women of our fire and emergency services teams for the outstanding job they do in fighting fires and saving lives. I ask my colleagues to join me in urging all Americans to take the basic precautions that could save their lives.

WHITE HOUSE RECERTIFIES AN ILL-DESERVING GUATEMALA

HON. EDOLPHUS TOWNS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 2, 2003

Mr. TOWNS. Mr. Speaker, yesterday, a memorandum on Guatemala's many problems from the highly respected Washington-based Council on Hemispheric Affairs (COHA) was placed in the CONGRESSIONAL RECORD. The following timely memorandum authored by William McIntire, a research fellow at COHA, is a continuation of COHA's analysis of the ominous situation in Guatemala. COHA, a non-partisan organization that has long been committed to addressing issues associated with human rights, democracy and economic justice throughout the Western Hemisphere, has been referred to by Senator EDWARD KENNEDY a number of years ago as ''one of our Nation's most respected bodies of scholars and policymakers.''

WHITE HOUSE RECERTIFIES AN ILL-DESERVING GUATEMALA

(By William B. McIntire, COHA Research Fellow)

On Monday, September 15, the White House recommended to Congress that their certification of Guatemala, which was previously revoked due to failure of that country's authorities to be faithful allies in Washington's war on drugs, be renewed. This move, a stunning reversal of a Bush administration decision made last January to decertify for reasons of non-performance, qualifies the country to receive U.S. financial aid to fight drug traffickers. Applied to Guatemala, however, U.S. recertification remains a largely symbolic action as Washington waived all sanctions against Guatemala last January and

never halted the flow of aid to that country. Guatemala will now, nevertheless, gain the prestige of being a U.S. ally when it comes to the drug war, when the whole process is actually a sham. Alongside similar actions against Burma and Haiti, the State Department's Bureau for International Narcotics and Law Enforcement Affairs (INL) announced its original decertification decision last January, which was a reflection on the escalating ineffectiveness of Guatemala's counter-narcotics efforts, as a result of President Alfonso Portillo's lackluster performance. The quantity of drugs seized by the Guatemalan government, which was rising annually until Portillo took office, plummeted in 2000 to only 13 percent of the amount seized the year before. In 2002 the Guatemalan police reportedly embezzled more than twice the quantity of drugs than they confiscated. The government's patently spurious commitment to the UN-brokered 1996 peace accords was also cited as a basis for Washington's decision to decertify last January. By its present action, the Bush administration graphically shows Latin America that when it comes to Washington's much touted war against drugs, there is no doubt that trade comes first.

WHITE HOUSE HOPES TO CHANGE GUATEMALA'S WAYS

In his briefing on the president's certification determination, INL Acting Assistant Secretary Paul Simons observed that last year's ''suspension of assistance to Guatemala would result in further deterioration of precisely those Guatemalan institutions that are essential to combating the influence of organized crime.'' As a result, the State Department decided that, despite its decision to decertify Guatemala, financial sanctions that would normally accompany such a decision would not be exercised because they would only further undermine the country's already highly delicate democratic institutions.

More directly, President Bush's decision to rescind last January's largely symbolic decertification will be an obvious effort to woo Guatemala, which has the region's largest population and economy, into supporting a Central American Free Trade Agreement (CAFTA). CAFTA is a prototype of Washington's Free Trade Area of the Americas (FTAA) scheme, which has been one of its highest priorities, and because of Guatemala's economic significance, it is a prime target for Washington's courtship. As a result, Bush's drug war is being crucified on the cross of free trade. Thus, it comes as no surprise that the Bush administration would not permit a small matter like Guatemala's abysmal drug interdiction record of late to jeopardize the achievement of CAFTA. As negotiations for the trade pact continue, Washington has also received criticism for not pursuing strong labor and environmental regulations as part of its core.

CAFTA: IS IT WORTH THE SACRIFICE?

To the chagrin of some in Washington, Guatemala's Constitutional Court recently gave former dictator Efrain Rios Montt its blessing to run for the presidency despite a constitutional provision that bars all coup participants from doing so. Rios Montt rose to power during a military coup in March 1982 and promptly set about a ''scorched earth'' campaign, murdering thousands of Mayan peasants. U.S. Ambassador to Guatemala John R. Hamilton has publicly warned that U.S. relations with Guatemala would be compromised if Rios Montt made his way back to power. Still, in the face of reaching a free trade accord, the recertification of Guatemala reveals the true stripes of Washington's foreign policy, and the insignificance it accords to the anti-drug war and the rising human rights toll in Guatemala. In the name of Washington's free trade blitzkrieg, the White House has sacrificed the integrity of its professedly unwavering commitment to fight corruption and drugs in the very same Central American countries in which it allegedly endeavors to expand democracy, while promoting its all-important trade accord.

MORE HOLES THAN SWISS CHEESE IN WHITE HOUSE RECERTIFICATION OF GUATEMALA

On Monday, September 15, the White House, using doctored information and skimpy statistics, recommended to Congress the recertification of Guatemala, reversing a Bush administration decision made last January in response to the dramatic evidence of Guatemala's failure to meaningfully cooperate with Washington's anti-drug efforts. Recertification would normally qualify the newly reaccredited country to receive U.S. financial aid. However, for Guatemala, it remains a largely symbolic action, since Washington originally had waived all sanctions against the country, maintaining the flow of bilateral aid in the interest of preserving what meager anti-narcotics operations that remain active in the country. Shortly after the original decertification, 21 members of the U.S. Congress asserted that, until Guatemala was recertified as the result of a dramatically improved drug interdiction record, they would not vote to ratify the Central American Free Trade Agreement (CAFTA).

In his Monday memorandum to the State Department President Bush, using self-obfuscating language, touted Guatemala's ''willingness to better its counternarcotics practices,'' but shied away from coming forth with any evidence to support it. Instead, the country was merely omitted from a section of the memorandum listing nations that had ''failed demonstrably . . . to adhere to their obligations under international counternarcotics agreements.'' Whereas Guatemala, Haiti and Myanmar had been blacklisted in January, only the latter two remained in the September 15 statement. The Bush administration, understandably sheepish when it came to recertifying Guatemala only months after decertifying it, and with no tangible evidence to justify doing so, camouflaged the announcement in the memorandum, hoping not to draw too much attention to its actions. The underhanded nature of this decision represents a massive downgrading of the authenticity of both Washington's and Guatemala's supposed anti-drug efforts. Guatemala would certainly not qualify for certification if actually put to even a minimally objective test. In making its determination, Washington proved once again that its certification process was little better than a total sham.

A WHITE HOUSE DECEPTION

Since the White House decertified Guatemala last January, the DEA observed that the country had become the ''preferred Central American location for storage and consolidation of drug loads,'' and boats and light aircraft regularly bring drugs into the country. The official White House report had to acknowledge that Guatemala's alleged improvements were only the ''initial steps'' that had to be taken and the ''permanence of these improvements had yet to be determined.'' In other words, no significant steps have been made to curtail the flow of narcotics through Guatemala. Meanwhile, the White House is concerned mainly with fulfilling its free trade aspirations in Central America and realizes that they would not likely be achieved if Guatemala remains uncertified. Thus ignoring the true deficiency of Guatemala's anti-drug efforts, the Bush administration is trying to slyly sweep its failed anti-drug campaign in the country under the rug, caricaturing the entire certification process just as the Clinton administration did with Mexico in 1997. As with the present Bush administration, free trade logistics, specifically the North American Free Trade Agreement (NAFTA), rather than a faithful evaluation of that country's anti-drug performance, were the order of the day.

President Bush expects ''Guatemala to continue its efforts and to demonstrate further progress in the coming year,'' apparently hoping that recertification will self-prophetically lead to increased cooperation with his war on drugs, a trend he claims erroneously in the memorandum has already been manifest in the recent attitude of Guatemalan authorities. Interestingly, only hours before the White House announcement, Guatemalan officials announced that they had just seized record quantities of drugs, perhaps hoping to gull some ingenues into believing that interdictions had reacquired past levels. Suspiciously, no arrests had been made, nor statistics cited, to reinforce this claim. Some allege that previously seized drugs had been recycled and ''seized'' again to create the false pretense of successful interdiction.

By spinning the facts of Guatemala's performance (pointing to the country's supposedly renewed dedication to counter-narcotics efforts) and continuing to use the certification process as a political weapon, the White House risks further disenchanting its remaining hemispheric allies in its fading war against drug traffickers.

TRIBUTE TO DR. PAUL SMITH

HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 2, 2003

Mr. McINNIS. Mr. Speaker, I rise before this body of Congress and this nation today to pay tribute to an outstanding citizen from my district. Dr. Paul Smith of Pueblo West, Colorado is a dedicated physician who has worked tirelessly to improve the care given to our veterans. An alumnus of Colorado State University—Pueblo, Paul is being recognized by that institution with their award for Outstanding Service to the University, and I am honored to recognize his achievements here today.

Paul was instrumental in the creation of the Eastern Colorado Health Care System, which merged with the Southern Colorado Health System of the Veterans Administration and the Denver VA Medical Center. He serves as the Associate Chief of Staff for Community-Based Care, where he is responsible for overseeing seven Veterans Administration clinics in central and southern Colorado. In addition to his dedication to our nation's veterans, Paul has remained active in the Colorado State University—Pueblo community by serving on search and screening committees, advising on the restructuring of the Student Health Services, and donating his time to the university's health clinic.

Mr. Speaker, Paul Smith is the kind of dedicated and devoted citizen who makes our communities a better place. His tireless work has improved the lives of countless veterans and members of the community at large. I am honored to join with my colleagues in paying tribute to Paul Smith here today. I wish him all the best in his future endeavors.

Daily Digest

HIGHLIGHTS

Senate agreed to S. Con. Res. 71, Adjournment Resolution.

The House agreed to the conference report on S. 3, Partial Birth Abortion Ban Act of 2003.

Senate

Chamber Action

Routine Proceedings, pages S12305–S12419

Measures Introduced: Nine bills and two resolutions were introduced, as follows: S. 1701–1709, S. Res. 238, and S. Con. Res. 71. **Page S12376**

Measures Reported:

Report to accompany S. 1689, making emergency supplemental appropriations for Iraq and Afghanistan security and reconstruction for the fiscal year ending September 30, 2004. (S. Rept. No. 108–160)

S. 1478, to reauthorize the National Telecommunications and Information Administration. (S. Rept. No. 108–161)

S. Res. 230, calling on the People's Republic of China immediately and unconditionally to release Rebiya Kadeer.

S. Res. 231, commending the Government and people of Kenya.

S. 1580, to amend the Immigration and Nationality Act to extend the special immigrant religious worker program, with an amendment in the nature of a substitute.

S. Con. Res. 66, commending the National Endowment for Democracy for its contributions to democratic development around the world on the occasion of the 20th anniversary of the establishment of the National Endowment for Democracy.

Page S12375

Measures Passed:

Adjournment Resolution: Senate agreed to S. Con. Res. 71, providing for a conditional adjournment or recess of the Senate. **Pages S12349–50**

Authorizing Regulations: Senate agreed to S. Res. 238, authorizing regulations relating to the use of official equipment. **Pages S12417–18**

Emergency Supplemental Appropriations, Iraq and Afghanistan: Senate continued consideration of S. 1689, making emergency supplemental appropriations for Iraq and Afghanistan security and reconstruction for the fiscal year ending September 30, 2004, taking action on the following amendments proposed thereto: **Pages S12311–46, S12350–60**

Adopted:

By 98 yeas to 1 nay (Vote No. 372), McConnell Modified Amendment No. 1795, to commend the Armed Forces of the United States in the War on Terrorism. **Pages S12311–16**

Coleman Amendment No. 1802, to fund travel within the United States for members of the Armed Forces on rest and recuperation leave from a deployment overseas in support of Operation Iraqi Freedom or Operation Enduring Freedom. **Pages S12337–39**

Collins/Wyden Amendment No. 1820, to limit the obligation and expenditure of funds for using procedures other than full and open competition for entering into certain contracts or other agreements for the benefit of Iraq. **Pages S12354–55**

Daschle/Graham (SC) Amendment No. 1816, to ensure that members of the Ready Reserve of the Armed Forces are treated equitably in the provision of health care benefits under TRICARE and otherwise under the Defense Health Program.

Pages S12356–57

Stevens Amendment No. 1821, to strike the requirement for the Department of Defense to describe an Analysis of Alternatives for replacing the capabilities of the KC–135 aircraft fleet. **Page S12357**

Reid (for Murray/Durbin) Amendment No. 1822, to provide requirements with respect to United States activities in Afghanistan and Iraq.

Pages S12357–58

Reed/Kennedy Modified Amendment No. 1812, to increase the amount provided for the Army for

procurement of up-armored High Mobility Multipurpose Wheeled Vehicles, to require an Army reevaluation of requirements and options for procuring armored security vehicles, and to provide an offset. **Pages S12358–60**

Stevens (for Voinovich/Lott) Amendment No. 1808, to require a report on efforts to increase financial contributions from the international community for reconstruction in Iraq and the feasibility of repayment of funds contributed for infrastructure projects in Iraq. **Page S12360**

Rejected:

Biden Modified Amendment No. 1796, to provide funds for the security and stabilization of Iraq by suspending a portion of the reductions in the highest income tax rate for individual taxpayers. (By 57 yeas to 42 nays (Vote No. 373), Senate tabled the amendment.) **Pages S12311, S12316–37**

Leahy/Daschle Amendment No. 1803, to place the Coalition Provisional Authority in Iraq under the direct authority and foreign policy guidance of the Secretary of State. (By 56 yeas to 42 nays (Vote No. 374), Senate tabled the amendment.) **Pages S12339–46**

Dodd Amendment No. 1817, to provide an additional $322,000,000 for safety equipment for United States forces in Iraq and to reduce the amount provided for reconstruction in Iraq by $322,000,000. (By 49 yeas to 37 nays (Vote No. 376), Senate tabled the amendment.) **Pages S12351–54**

Pending:

Byrd Amendment No. 1818, to impose a limitation on the use of sums appropriated for the Iraq Relief and Reconstruction Fund. **Page S12350**

Byrd/Durbin Amendment No. 1819, to prohibit the use of Iraq Relief and Reconstruction Funds for low priority activities that should not be the responsibility of U.S. taxpayers, and shift $600 million from the Iraq Relief and Reconstruction Fund to Defense Operations and Maintenance, Army, for significantly improving efforts to secure and destroy conventional weapons, such as bombs, bomb materials, small arms, rocket propelled grenades, and shoulder-launched missiles, in Iraq. **Pages S12350–51**

Reid (for Stabenow) Amendment No. 1823, to provide emergency relief for veterans healthcare, school construction, healthcare and transportation needs in the United States, and to create 95,000 new jobs. **Page S12358**

A unanimous-consent agreement was reached providing for further consideration of the bill at 10 a.m., on Friday, October 3, 2003. **Page S12418**

Genetic Information Nondiscrimination Act: Senate began consideration of S. 1053, to prohibit discrimination on the basis of genetic information with respect to health insurance and employment, agreeing to the committee amendment in the nature of a substitute and agreeing to the following amendment proposed thereto: **Pages S12403–17**

Frist (for Snowe) Amendment No. 1824, in the nature of a substitute. **Pages S12403–17**

A unanimous-consent agreement was reached providing for further consideration of the bill at 2:15 p.m., on Tuesday, October 14, 2003; there be 15 minutes of debate equally divided, followed by a vote on final passage to occur thereon. **Pages S12403–04**

Appointments:

Social Security Advisory Board: The Chair, on behalf of the President pro tempore, and in consultation with the Chairman and the Ranking Minority Member of the Finance Committee, pursuant to Public Law 103–296, appointed Sylvester J. Schieber, of Maryland, as a member of the Social Security Advisory Board for a six-year term. **Page S12418**

Advisory Committee on Student Financial Assistance: The Chair, on behalf of the President pro tempore, pursuant to Public Law 99–498, appointed Rene Drouin of New Hampshire, vice Charles Terrell of Massachusetts, to the Advisory Committee on Student Financial Assistance for a three-year term. **Page S12418**

Nominations Confirmed: Senate confirmed the following nominations:

By unanimous vote of 98 yeas (Vote No. Ex. 375), William Q. Hayes, of California, to be United States District Judge for the Southern District of California. **Pages S12346–47, S12419**

John A. Houston, of California, to be United States District Judge for the Southern District of California.

Robert Clive Jones, of Nevada, to be United States District Judge for the District of Nevada.

Phillip S. Figa, of Colorado, to be United States District Judge for the District of Colorado.

1 Army nomination in the rank of general.

1 Navy nomination in the rank of admiral. **Pages S12347–49, S12417, S12419**

Nominations Received: Senate received the following nominations:

Jose Antonio Aponte, of Colorado, to be a Member of the National Commission On Libraries and Information Science for a term expiring July 19, 2007.

Sandra Frances Ashworth, of Idaho, to be a Member of the National Commission on Libraries and Information Science for a term expiring July 19, 2004.

Edward Louis Bertorelli, of Massachusetts, to be Member of the National Commission on Libraries

and Information Science for a term expiring July 19, 2005.

Carol L. Diehl, of Wisconsin, to be a Member of the National Commission on Libraries and Information Science for a term expiring July 19, 2005.

Allison Druin, of Maryland, to be a Member of the National Commission on Libraries and Information Science for a term expiring July 19, 2006.

Beth Fitzsimmons, of Michigan, to be a Member of the National Commission on Libraries and Information Science for a term expiring July 19, 2006.

Patricia M. Hines, of South Carolina, to be a Member of the National Commission on Libraries and Information Science for a term expiring July 19, 2005.

Colleen Ellen Huebner, of Washington, to be a Member of the National Commission on Libraries and Information Science for a term expiring July 19, 2007.

Stephen M. Kennedy, of New Hampshire, to be a Member of the National Commission on Libraries and Information Science for a term expiring July 19, 2007.

Bridget L. Lamont, of Illinois, to be a Member of the National Commission on Libraries and Information Science for a term expiring July 19, 2008.

Mary H. Perdue, of Maryland, to be a Member of the National Commission on Libraries and Information Science for a term expiring July 19, 2008.

Herman Lavon Totten, of Texas, to be a Member of the National Commission on Libraries and Information Science for a term expiring July 19, 2008.

2 Air Force nominations in the rank of general.

A routine list in the Public Health Service.

Pages S12418–19

Messages From the House: **Pages S12371–72**

Measures Referred: **Page S12372**

Enrolled Bills Presented: **Page S12372**

Executive Communications: **Pages S12372–75**

Executive Reports of Committees: **Pages S12375–76**

Additional Cosponsors: **Pages S12376–77**

Statements on Introduced Bills/Resolutions: **Pages S12377–87**

Additional Statements: **Pages S12369–71**

Amendments Submitted: **Pages S12387–S12403**

Authority for Committees to Meet: **Page S12403**

Privilege of the Floor: **Page S12403**

Record Votes: Five record votes were taken today. (Total—376)

Pages S12316, S12337, S12346, S12347, S12354

Adjournment: Senate met at 9:30 a.m., and adjourned at 9:36 p.m., until 9:30 a.m., on Friday, October 3, 2003. (For Senate's program, see the remarks of the Majority Leader in today's Record on page S12418.)

Committee Meetings

(Committees not listed did not meet)

SARBANES-OXLEY ACT

Committee on Banking, Housing, and Urban Affairs: Committee concluded a hearing to examine the implementation of the Sarbanes-Oxley Act (Public Law 107–204) and restoring investor confidence, after receiving testimony from Paul A. Volcker, Washington University, St. Louis, Missouri, former Chairman, Federal Reserve System, Charles A. Bowsher, National Association of Securities Dealers, Chicago, Illinois, former Comptroller General of the United States, Ralph Larsen, Johnson and Johnson, New Brunswick, New Jersey, and Peter G. Peterson, Blackstone Group, New York, New York, all on behalf of the Conference Board, Inc.; Brian P. Anderson, Baxter International Inc., Deerfield, Illinois; John J. Castellani, Business Roundtable, and Richard L. Trumka, American Federation of Labor and Congress of Industrial Organizations, both of Washington, D.C.; and Keith D. Grinstein, Coinstar, Inc., Bellevue, Washington.

MEDIA OWNERSHIP

Committee on Commerce, Science, and Transportation: Committee concluded a hearing on media ownership, focusing on issues of media concentration and ownership rules, after receiving testimony from Mark Cooper, Consumer Federation of America, Washington, D.C.; and Victor B. Miller IV, Bear, Stearns and Company, Inc., Eli M. Noam, Columbia Institute for Tele-Information, Columbia University Graduate School of Business, and Philip M. Napoli, Fordham University Graduate School of Business, all of New York, New York.

AMTRAK

Committee on Commerce, Science, and Transportation: Committee concluded a hearing on S. 1501, to amend title 49, United States Code, to provide for stable, productive, and efficient passenger rail service in the United States, focusing on the future of intercity passenger rail service, after receiving testimony from Allan Rutter, Administrator, Federal Railroad Administration, and Kenneth M. Mead, Inspector General, both of the Department of Transportation; David L. Gunn, President and Chief Executive Officer, Amtrak; and Claudia L. Howells, Oregon Department of Transportation, Salem.

NATIONAL PARKS

Committee on Energy and Natural Resources: Subcommittee on National Parks concluded a hearing to examine S. 524, to expand the boundaries of the Fort Donelson National Battlefield to authorize the acquisition and interpretation of lands associated with the campaign that resulted in the capture of the fort in 1862, S. 1313, to establish the Congaree Swamp National Park in the State of South Carolina, S. 1472, to authorize the Secretary of the Interior to provide a grant for the construction of a statue of Harry S Truman at Union Station in Kansas City, Missouri, and S. 1576, to revise the boundary of Harpers Ferry National Historical Park, after receiving testimony from Senator Hollings; Sue Masica, Associate Director of Park Planning, Facilities, and Lands, National Park Service, Department of the Interior; Debby Spencer, West Kentucky Corporation, Bowling Green, Kentucky; Dennis E. Frye, Civil War Adventures, Sharpsburg, Maryland; Hattie Fruster, Lower Richland National Association For the Advancement of Colored People (NAACP), Hopkins, South Carolina; and Harriet Hampton-Faucette, Friends of the Congaree Swamp, Columbia, South Carolina.

BUSINESS MEETING

Committee on Finance: on Wednesday, October 1, 2003, Committee ordered favorably reported S. 1637, to amend the Internal Revenue Code of 1986 to comply with the World Trade Organization rulings on the FSC/ETI benefit in a manner that preserves jobs and production activities in the United States, to reform and simplify the international taxation rules of the United States, with an amendment in the nature of a substitute.

CUBA

Committee on Foreign Relations: Committee concluded a hearing to examine challenges for U.S. policy toward Cuba, focusing on the Western Hemisphere, challenges to multilateral consensus, U.S. programs to promote democracy and human rights, humanitarian aid and educational tourism, agricultural trade, and travel, after receiving testimony from Senator Baucus; Roger F. Noriega, Assistant Secretary of State for Western Hemisphere Affairs; R. Richard Newcomb, Director, Office of Foreign Assets Control, Department of the Treasury; Jose Miguel Vivanco, Human Rights Watch, Emilio T. Gonzalez, Tew Cardenas, LLP, and Bernard W. Aronson, ACON Investments, LLC, all of Washington, D.C.

BUSINESS MEETING

Committee on Foreign Relations: Committee ordered favorably reported the following business items:

S. Con. Res. 66, commending the National Endowment for Democracy for its contributions to democratic development around the world on the occasion of the 20th anniversary of the establishment of the National Endowment for Democracy;

S. Res. 230, calling on the People's Republic of China immediately and unconditionally to release Rebiya Kadeer;

S. Res. 231, commending the Government and people of Kenya; and

The nominations of Richard Eugene Hoagland, of the District of Columbia, to be Ambassador to the Republic of Tajikistan, Pamela P. Willeford, of Texas, to be Ambassador to Switzerland, and to serve concurrently and without additional compensation as Ambassador to the Principality of Liechtenstein, James Casey Kenny, of Illinois, to be Ambassador to Ireland, Randall L. Tobias, of Indiana, to be Coordinator of United States Government Activities to Combat HIV/AIDS Globally, with the rank of Ambassador, W. Robert Pearson, of Tennessee, to be Director General of the Foreign Service, William Cabaniss, of Alabama, to be Ambassador to the Czech Republic, David L. Lyon, of California, to serve concurrently and without additional compensation as Ambassador to the Republic of Kiribati, Roderick R. Paige, of Texas, to be a Representative of the United States of America to the Thirty-second Session of the General Conference of the United Nations Educational, Scientific, and Cultural Organization, Robert B. Charles, of Maryland, to be an Assistant Secretary of State (International Narcotics and Law Enforcement Affairs), H. Douglas Barclay, of New York, to be Ambassador to El Salvador, and Pamela A. White, of Virginia, for promotion into the Senior Foreign Service.

BUSINESS MEETING

Committee on Governmental Affairs: Committee ordered favorably reported the nomination of C. Suzanne Mencer, of Colorado, to be the Director of the Office for Domestic Preparedness, Department of Homeland Security.

BUSINESS MEETING

Committee on Health, Education, Labor, and Pensions: Committee ordered favorably reported the following bills:

S. 606, to provide collective bargaining rights for public safety officers employed by States or their political subdivisions; and

S. 1627, to reauthorize the Workforce Investment Act of 1998, with an amendment in the nature of a substitute.

SPOKANE TRIBE HYDROPOWER SETTLEMENT

Committee on Indian Affairs: Committee concluded a hearing to examine S. 1438, to provide for equitable compensation of the Spokane Tribe of Indians of the Spokane Reservation in settlement of claims of the Tribe concerning the contribution of the Tribe to the production of hydropower by the Grand Coulee Dam, after receiving testimony from Senator Murray; Warren Seyler, Spokane Tribal Business Council, Wellpinit, Washington; Howard Funke, Funke and Work Law Offices, Coeur D'Alene, Idaho; and Charles E. Pace, Regional Services, Challis, Idaho.

BUSINESS MEETING

Committee on the Judiciary: Committee ordered favorably reported the following business items: S. 1580, to amend the Immigration and Nationality Act to extend the special immigrant religious worker program, with an amendment in the nature of a substitute; and

The nominations of Charles W. Pickering, Sr., of Mississippi, to be United States Circuit Judge for the Fifth Circuit, Margaret Catharine Rodgers, to be United States District Judge for the Northern District of Florida, Roger W. Titus, to be United States District Judge for the District of Maryland, and Karin J. Immergut, of Oregon, to be United States Attorney for the District of Oregon, Department of Justice.

INTELLIGENCE

Select Committee on Intelligence: Committee held closed hearings on intelligence matters, receiving testimony from officials of the intelligence community.

Committee recessed subject to call.

House of Representatives

Chamber Action

Measures Introduced: public bills, H.R. ; private bills, H.R. ; and resolutions, H.J. Res. ; H. Con. Res. , and H. Res. were introduced. **Pages H9213–14**

Additional Cosponsors: **Pages H9214–15**

Reports Filed: Reports were filed as follows:

H. Res. 364, a resolution of inquiry requesting the President to transmit to the House of Representatives not later than 14 days after the date of adoption of this resolution the report prepared for the Joint Chiefs of Staff entitled "Operation Iraqi Freedom Strategic Lessons Learned" and documents in his possession on the reconstruction and security of post-war Iraq, adversely, (H. Rept. 108–289, Pt. 2).

H.R. 408, to provide for expansion of Sleeping Bear Dunes National Lakeshore, amended, (H. Rept. 108–292);

H.R. 708, to require the conveyance of certain National Forest System lands in Mendocino National Forest, California, to provide for the use of the proceeds from such conveyance for National Forest purposes, (H. Rept. 108–293);

H.R. 1092, to authorize the Secretary of Agriculture to sell certain parcels of Federal land in Carson City and Douglas County, Nevada, amended, (H. Rept. 108–294);

H.R. 1442, to authorize the design and construction of a visitor center for the Vietnam Veterans Memorial, amended, (H. Rept. 108–295); and

S. 254, to revise the boundary of the Kaloko-Honokohau National Historical Park in the State of Hawaii, (H. Rept. 108–296). **Pages H9212–13**

Chaplain: The prayer was offered today by Rev. Charles L. Moseley, Pastor, Great Bridge Baptist Church in Chesapeake, Virginia. **Page H9133**

Approval of Journal: The House agreed to approve the Journal of the proceedings of Wednesday, October 1 by a voice vote. **Page H9133**

Partial Birth Abortion Ban Act: The House agreed to the conference report on S. 3, to prohibit the procedure commonly known as partial-birth abortion, by a yea-and-nay vote of 281 yeas to 142 nays, Roll No. 530. **Pages H9135–55**

H. Res. 383, the rule providing for consideration of the conference report was agreed to by voice vote. **Page H9154**

Labor, Health and Human Services, and Education Appropriations—Motion to go to Conference: Agreed by unanimous consent to disagree to the Senate amendment to H.R. 2660, making appropriations for the Departments of Labor, Health and Human Services, and Education, and related agencies for the fiscal year ending September 30, 2004, and agreed to a conference. **Pages H9155–66**

The House agreed to the Obey motion to instruct conferees on the bill by a yea-and-nay vote of 221 yeas to 203 nays, Roll No. 531. **Pages H9155–66**

Appointed as conferees: Representatives Regula, Istook, Wicker, Northup, Cunningham, Granger,

Peterson of Pennsylvania, Sherwood, Weldon of Florida, Simpson, Young of Florida, Obey, Hoyer, Lowey, DeLauro, Jackson of Illinois, Kennedy of Rhode Island, and Roybal-Allard. Page H9166

Energy Policy Act of 2003—Motion to Instruct Conferees: The House agreed to the Inslee motion to instruct conferees on H.R. 6, to enhance energy conservation and research and development, to provide for security and diversity in the energy supply for the American people by a voice vote.

Pages H9168–71

Medicare Prescription Drug Benefit—Motion to Instruct Conferees: The House debated the Bishop of New York motion to instruct conferees on H.R. 1, Medicare Prescription Drug and Modernization Act of 2003. Pages H9171–87

The House also debated the Flake motion to instruct conferees on the bill. Pages H9180–87

Further proceedings on both motions were postponed until a later date. Page H9187

Senate Messages: Messages from the Senate appear today on pages H9133 and H9203.

Meeting Hour: Agreed that when the House adjourn today, it adjourn to meet at 10 a.m. tomorrow, and further, that when it adjourns tomorrow, it adjourn to meet at 12:30 p.m. on Tuesday, October 7 for morning hour debate. Page H9187

Private Calendar: Agreed to dispense with the private calendar for Tuesday, October 7. Page H9187

Calendar Wednesday: Agreed to dispense with the Calendar Wednesday business of Wednesday, October 8. Page H9187

Conditional Adjournment or Recess of the Senate: The House agreed to S. Con. Res. 71, providing for a conditional adjournment or recess of the Senate. Page H9208

Adjournment: The House met at 10 a.m. and adjourned at 8:31 p.m.

Committee Meetings

REVIEW CROP INSURANCE—SPECIALTY CROP PRODUCERS

Committee on Agriculture: Subcommittee on General Farm Commodities and Risk Management held a hearing to review crop insurance for specialty crop producers. Testimony was heard from public witnesses.

SUPPLEMENTAL REQUEST—IRAQ AND AFGHANISTAN

Committee on Appropriations: Subcommittee on Military Construction held a hearing on the Administration's Fiscal Year Supplemental Request for Iraq and Afghanistan. Testimony was heard from the following officials of the Department of Defense: Ray DuBois, Deputy Under Secretary, Installations and Environment; Gen. Larry Lust, USA, Assistant Chief of Staff, Installation Management; Gen. Dean Fox, USAF, Air Force Civil Engineer; and Lawrence Lanzillotta, Principal Deputy and Deputy Under Secretary, Management Reform.

OPERATION IRAQI FREEDOM—OPERATIONAL LESSONS

Committee on Armed Services: Held a hearing on the U.S. Joint Forces Command on operational lessons from Operation Iraqi Freedom. Testimony was heard from the following officials of the Department of Defense: Adm. E.P. Giambastiani, U.S. Navy Command, Commander, U.S. Joint Forces Command; and Brig. Gen. Bob Cone, USA, Director, Joint Lessons Learned Team.

MISCELLANEOUS MEASURES

Committee on Education and the Workforce: Subcommittee on Employer-Employee Relations approved for full Committee action the following bills: H.R. 992, Union Members Right-to-Know Act; H.R. 993, Labor Management Accountability Act; and H.R. 994, Union Member Information Act.

MISCELLANEOUS MEASURES; ENTREPRENEURIAL GOVERNMENT RUN AMOK?

Committee on Government: Ordered reported the following measures: H. Con. Res. 264, authorizing and requesting the President to issue a proclamation to commemorate the 200th anniversary of the birth of Constantino Brumidi; and H.J. Res. 70, recognizing Inspectors General over the last 25 years in their efforts to prevent and detect waste, fraud, abuse, and mismanagement, and to promote economy, efficiency, and effectiveness in the Federal Government.

The Committee also held a hearing on "Entrepreneurial Government Run Amok? A Review of FTS/FTS Organizational and Management Challenges." Testimony was heard from Stephen Perry, Administrator, GSA; William T. Woods, Director, Acquisition and Sourcing Management, GAO; and public witnesses.

U.S. POLICY TOWARD LIBERIA

Committee on International Relations: Subcommittee on Africa held a hearing on U.S. Policy Toward Liberia, Testimony was heard from Walter H. Kansteiner III, Assistant Secretary, Bureau of African Affairs, Department of State; Theresa Whelan, Deputy Assistant Secretary, Office of African Affairs, Department of Defense; and public witnesses.

HUMAN RIGHTS IN BURMA

Committee on International Relations: Subcommittee on International Terrorism, Nonproliferation and Human Rights, and the Subcommittee on Asia and the Pacific concluded joint hearings on Human Rights in Burma: Fifteen Years Post Military Coup, Part II. Testimony was heard from the following officials of the Department of State: Lorne W. Craner, Assistant Secretary, Bureau of Democracy, Human Rights and Labor; and Matthew Daley, Deputy Assistant Secretary, Bureau of East Asian and Pacific Affairs.

INTERNET TOBACCO SALES ENFORCEMENT ACT

Committee on the Judiciary: Subcommittee on Courts, the Internet, and Intellectual Property approved for full Committee action, as amended, H.R. 2824, Internet Tobacco Sales Enforcement Act.

MISCELLANEOUS MEASURES

Committee on Resources: Subcommittee on Water and Power held a hearing on the following bills: H.R. 885, Arizona Water Settlements Act; and H.R. 1753, Spokane Tribe of Indians of the Spokane Reservation Grand Coulee Dam Equitable Compensation Settlement Act. Testimony was heard from Senator Kyl; Representative Nethercutt; Bennett W. Raley, Assistant Secretary, Water and Science, Department of the Interior; Steven Hickok, Deputy Administrator, Bonneville Power Administration, Department of Energy; and public witnesses.

DEPARTMENT OF VETERANS AFFAIRS—IMPACT OF NURSING SHORTAGE

Committee on Veterans' Affairs: Subcommittee on Oversight and Investigations held a hearing on the impact of the nursing shortage on the Department of Veterans Affairs. Testimony was heard from the following officials of the Department of Veterans Affairs: Cathy J. Rick, R.N., Chief Nursing Officer; Sandra K. Janzen, R.N., Associate Chief of Staff/Nursing, James A. Haley Veteran's Hospital; and Mary Raymer, R.N., Nursing Education Program Manager, Health Care Staff Development and Retention Office; representatives of nursing associations; and public witnesses.

IRAQ WEAPONS OF MASS DESTRUCTION UPDATE

Permanent Select Committee on Intelligence: Met in executive session to hold a hearing on Iraq Weapons of Mass Destruction Update. Testimony was heard from departmental witnesses.

Joint Meetings

NATIONAL INSTITUTES OF HEALTH

Joint Hearing: Senate Committee on Health, Education, Labor, and Pensions concluded a joint hearing with the House Committee on Energy and Commerce to examine National Institutes of Health management of biomedical research to prevent and cure disease in the 21st Century, focusing on the doubling of the NIH budget that is fueling scientific advances and the complexity of these new biological discoveries that create scientific and management challenges, after receiving testimony from Elias A. Zerhouni, Director, National Institutes of Health, Department of Health and Human Services; Harold Varmus, Memorial Sloan-Kettering Cancer Center, New York, New York, former Director, NIH; and Harold Shapiro, Princeton University, Princeton, New Jersey, on behalf of the National Research Council Committee on the Organizational Structure of NIH.

NEW PUBLIC LAWS

(For last listing of Public Laws, see DAILY DIGEST, *p. D1077)*

H.R. 2555, making appropriations for the Department of Homeland Security for the fiscal year ending September 30, 2004. Signed on October 1, 2003. (Public Law 108–90).

COMMITTEE MEETINGS FOR FRIDAY, OCTOBER 3, 2003

(Committee meetings are open unless otherwise indicated)

Senate

Committee on Armed Services: to hold a closed briefing on the interim report on Iraq's weapons of mass destruction programs, 9:30 a.m., S–407, Capitol.

House

Committee on Government Reform, hearing entitled, "What if Isabel Met Tractor Man? A Post-Hurricane Reassessment of Emergency Readiness in the Capital Region," 10 a.m., 2154 Rayburn.

Next Meeting of the **SENATE**

9:30 a.m., Friday, October 3

Senate Chamber

Program for Friday: After the transaction of any morning business (not to extend beyond 10 a.m.), Senate will continue consideration of S. 1689, Emergency Supplemental Appropriations Act.

Next Meeting of the **HOUSE OF REPRESENTATIVES**

10 a.m., Friday, October 3

House Chamber

Program for Friday: The House will meet in pro forma session at 10 a.m.

Extensions of Remarks, as inserted in this issue

HOUSE

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